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October 30, 2019

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VIA Hand Delivery

Montgomery County Department of Transportation
Mr. Chris Conklin, Director
101 Monroe Street, 10th Floor
Rockville, Maryland 20850

Re: 8001 Block of Wisconsin Avenue, Bethesda – Application for Closure and Abandonment of Public Alley Running North/South in Block 5 of the West Chevy Chase Heights Subdivision (the “Public Alley”)

Dear Mr. Conklin:

On behalf of 8001 Wisconsin LLC (the “Applicant”), collective owner representative of properties located in the 8001 block of Wisconsin Avenue in Bethesda (the “Assembled Site”), the Applicant is submitting this request for closure and abandonment of the Public Alley pursuant to Section 49-62(b) of the Montgomery County Code (the “Application”). Please find copies of the following Application materials:

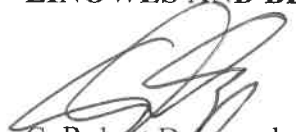
1. Check in the amount of \$2,500.00 made payable to Montgomery County, MD;
2. Narrative and Justification Statement in support of the Application;
3. Tax Map Excerpt of the Assembled Site with the Public Alley highlighted in blue (Exhibit “A”);
4. Metes and Bounds legal description of Public Alley (Exhibit “B”);
5. Civil sketch plan of the Public Alley (Exhibit “C”);
6. Original Subdivision Plat for West Chevy Chase Heights Recorded as Plat No. 186 in the Land Records of Montgomery County on March 31, 1916 (Exhibit “D”);
7. Petition for Abandonment and Circuit Court Order in Equity Case No. 33819 (Exhibit “E”);
8. Existing Conditions Images and Key Map for the Assembled Site and adjacent blocks (Exhibit “F”).

As described in the Narrative and Justification Statement referenced above, the Applicant requests that the Montgomery County Department of Transportation take all necessary actions to allow the soonest possible hearing by the County Executive or the County Executive’s designee to permit the County Executive to expeditiously forward to the County Council a recommendation for approval of this closure and abandonment. We thank you for your time and consideration processing this Application.

Mr. Chris Conklin
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Very truly yours,

LINOWES AND BLOCHER LLP



C. Robert Dalrymple



Matthew Gordon

cc: Eric Willis, Property Acquisition Section Chief, MCDOT
Mr. Brian Downie, B.F. Saul Company
Mr. Vince Burke, B.F. Saul Company

**L&B 8153353v2/05709.0030

APPLICATION TO CLOSE AND ABANDON RIGHT-OF-WAY

Pursuant to the provisions of Section 49-62 *et seq.* of the Montgomery County Code, 8001 Wisconsin, LLC (the “Applicant”) requests the closure and abandonment of the improved right-of-way constituting a ten (10’) to fifteen (15’) foot wide public alley that bifurcates in a north/south direction the entire block framed by Wisconsin Avenue to the west, Tilbury Street to the east, West Virginia Avenue to the south and Highland Avenue to the north in the Downtown Bethesda Sector Plan (the “Sector Plan”) policy area (the “Public Alley”). All of the properties in this entire block (the “Assembled Block”) have been assembled by the Applicant and related entities.¹ In this application, the Applicant represents the owners of the properties that abut the Public Alley.² The requested closure and abandonment of the Public Alley is a necessary component of the Applicant’s proposed mixed-use residential and retail redevelopment of the Assembled Block (the “Proposed Project”) as envisioned in the Sector Plan. The Public Alley is shown on the tax map excerpt attached hereto as Exhibit “A”, described in the metes and bounds description attached hereto as Exhibit “B”, and shown in plan view on Exhibit “C” attached hereto. As further described herein, the closure and abandonment of the Public Alley is appropriate as it will no longer be necessary for present public use or anticipated public use in the foreseeable future.

¹ The Assembled Block includes 8001 to 8023 Wisconsin Avenue, 4700 to 4706 Highland Avenue, and 4701 to 4705 West Virginia Avenue, as outlined in yellow on Exhibit “A”.

² 8001 Wisconsin, LLC serves as the Applicant in this matter on behalf of the following property owners that own land abutting the Public Alley: (1) 8001 Wisconsin LLC; (2) Tilbury LLC; (3) West Virginia Holdings LLC; and (4) Bredice LLC (collectively, the “Property Owners”).

By successfully assembling the Assembled Block (a result that was several years in the making) and gaining the ability to redevelop the entire block, the Applicant can implement the Sector Plan land use recommendations for an urban mixed-use redevelopment that will include an integrated and updated service and loading system. The Public Alley was created to provide a narrow rear alley for servicing single-loaded low-rise buildings on Wisconsin Avenue. The Sector Plan now recommends building heights of up to 90 feet on all properties in the western portion of the Assembled Block, including all of the properties that abut the Public Alley. In this respect, the Sector Plan's land use recommendations for the Assembled Block effectively acknowledge that the Public Alley is outdated and obsolete. Therefore, in order to implement the Sector Plan's land use vision for the Assembled Block, it is essential that the Public Alley that bisects the Assembled Block between Highland Avenue and West Virginia Avenue be formally closed and abandoned and replaced by a more efficient and safer service and loading system as contemplated in the Sector Plan for the Wisconsin Avenue Corridor and Eastern Greenway District of Downtown Bethesda. Further, the Sector Plan recommends implementation of an urban park (the "Eastern Greenway") through physical improvements and through appropriate legal instruments ensuring public access along the eastern portion of the Assembled Block. The Sector Plan also recommends dedication of additional public rights-of-way and provision of streetscape improvements along Wisconsin Avenue, Highland Avenue, West Virginia Avenue, and Tilbury Street. To complete abandonment of the Public Alley and to fulfill the contemplated land use vision for the Assembled Block, the Applicant will create a single lot of record for the Assembled Block, inclusive of the abandoned right-of-way and the provision of the dedications and public access recommended in the Sector Plan.

The Public Alley was originally created by the West Chevy Chase Heights Subdivision, recorded at Plat No. 186 in the Land Records of Montgomery County (the “Land Records”) on March 31, 1916 (a copy of the original subdivision plat is attached hereto as Exhibit “D”). Subsequently, an additional five feet (5') of right-of-way along the southeastern portion of the Public Alley was dedicated by the West Chevy Chase Heights Subdivision Plat for Lot 27 – Block 5, recorded at Plat No. 23437 in the Land Records on July 6, 2007. All of the right-of-way constituting the Public Alley (and now being abandoned) was dedicated to public use for no consideration, and the Property Owners own and control all of the properties adjoining the Public Alley. The adjacent blocks to the north and south of the Assembled Block also include 10' public alleys that were presumably intended for the neighborhood trash and servicing needs of the small lots fronting on Wisconsin Avenue in those adjacent blocks. Additionally, the original record plat (Plat No. 186) for the West Chevy Chase Heights Subdivision created a ten foot (10') public alley running east to west through the Assembled Block and intersecting with the Public Alley. This 10'-wide east/west public alley has already been abandoned³ and closed (eliminating another outdated and obsolete element in the original residential neighborhood trash and servicing plan for this area that is now being updated and improved through the implementation of the Sector Plan). As illustrated on the subdivision plat, these east to west ten foot (10') public alleys were created on the blocks to the north and south as well as on the blocks further to the east in the single-family residential neighborhood. While these ten foot (10') public alleys were presumably intended to accommodate the trash and servicing needs of these single-family

³ This ten foot (10') public alley running east to west through the Assembled Block was abandoned pursuant to Equity Case No. 33819, which was approved by the Circuit Court for Montgomery County on October 26, 1967 (a copy of the Petition for Abandonment and Circuit Court Order is attached as Exhibit “E”).

residential dwellings through their respective rear yards, the Public Alley that bifurcates the Assembled Block is no longer necessary to accommodate the loading and servicing needs of the Applicant's Proposed Project because those operations will be more effectively managed through updated internal design features.

As further illustrated by the existing conditions images and key map of the Assembled Block and adjacent blocks to the north and south attached hereto as Exhibit "F", the public alleys running north/south were created in 1916 to provide rear-yard service and loading for small lots fronting on Wisconsin Avenue. Vehicular access through the ten foot (10') public alley on the block to the north of the Assembled Block is no longer available. Simply stated, this system of residential neighborhood and single-loaded commercial service alleys that were provided for the area through the original platting of properties over 100 years ago will no longer serve this public purpose adequately at the Assembled Block, and the new internal servicing and loading systems that will be implemented by the Proposed Project will better serve the public than this outdated and functionally obsolete Public Alley.

Consistent with the above, the Applicant is requesting that the road closure and right-of-way abandonment of the Public Alley be approved by resolution of the County Council conditioned upon the following:

1. Approval by the Montgomery County Planning Board of a preliminary plan of subdivision for the Property (including the existing right-of-way being abandoned); and

2. Recordation of a subdivision plat for the Assembled Block to create a single lot of record for the Proposed Project and incorporating the abandonment of the existing Public Alley.

Pursuant to Section 49-63(c)(1) of the Montgomery County Code, the requested closure and abandonment of the Public Alley is appropriate in that the existing public alley is no longer necessary for present public use or anticipated public use in the foreseeable future. More specifically, this existing Public Alley creates a narrow, single-loaded servicing condition for low-rise commercial buildings and does not function in a manner that: (a) is viable for the Proposed Project's servicing and loading operations; or (b) is consistent with the urban, mixed-use redevelopment vision contemplated for the Assembled Block such that the Public Alley is obsolete and unnecessary. The abandonment and formal closure of this public alley, once replaced with cohesive improvements including the Proposed Project that accommodates enhanced vehicular access and servicing for an urban-mixed use redevelopment (all as envisioned and recommended by the Sector Plan), will better facilitate anticipated public use in the foreseeable future.


In addition to this Public Alley being no longer necessary for present public use or anticipated future use in the foreseeable future, the abandonment and closure is in the public interest as it will allow for the transit-oriented Proposed Project that helps to accomplish several of the Sector Plan's transportation goals, including enhanced roadway accommodation for all users, implementation of new transit alternatives, and improved pedestrian infrastructure. (Sector Plan, p. 35). Significantly, the abandonment and closure of this existing Public Alley will allow for efficient and code compliant driveway access points to the Assembled Block. The various

right-of-way dedications and streetscape improvements provided along Wisconsin Avenue, West Virginia Avenue, Highland Avenue, and Tilbury Street will encourage more accommodating roadway conditions for all users. The Proposed Project will also facilitate additional dedication on Wisconsin Avenue for the planned Bus Rapid Transit (BRT) system and dedication on Tilbury Street to allow for the shared roadway recommended by the Sector Plan. (Sector Plan, pp. 47-48). The abandonment and closure of the Public Alley and creation of one subdivision lot for the Assembled Block also facilitates the Proposed Project's ability to contribute to the Sector Plan's vision for an "Eastern Greenway" along Tilbury Street. Finally, the Sector Plan implicitly acknowledges that the abandonment and closure of the Public Alley is appropriate by recommending building heights to the east and west of the Public Alley that make this outdated service-oriented alley functionally obsolete.

For all of the reasons stated herein, the Applicant requests that the County Council adopt a resolution closing to public use and abandoning the public's right to use the described section of the Public Alley in Downtown Bethesda, subject to the conditions identified above. The Applicant further requests that the Montgomery County Department of Transportation take all necessary actions to allow the soonest possible hearing by the County Executive or the County Executive's designee to permit the County Executive to expeditiously forward to the County Council a recommendation for approval of this closure and abandonment. The proposed closure/abandonment and consolidation of the Assembled Block into one record lot as part of the Proposed Project, all as described herein, is in the overwhelming public interest to permit a safer and more efficient road and pedestrian network in Downtown Bethesda, as envisioned by the Sector Plan.

Respectfully submitted,

LINOWES AND BLOCHER LLP
On behalf of 8001 Wisconsin, LLC

By: 
C. Robert Dalrymple

By: 
Matthew M. Gordon

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