

Leila M. Jackson Batties
202 419 2583
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November 19, 2007

VIA HAND DELIVERY

Zoning Commission for
The District of Columbia
441 Fourth Street, N.W., Suite 210
Washington, D.C. 20001

**Re: Zoning Commission Case No. 05-23A / NoMa West Residential I, LLC
Agreement with DDOT Concerning Metropolitan Branch Trail Connection**

Dear Members of the Zoning Commission:

At the public hearing for the above-referenced application, the Zoning Commission requested clarification on the arrangement between DDOT and the Applicant concerning the funding and construction of the Metropolitan Branch Trail connection proposed under the PUD.

Please be advised that in an electronic mail correspondence, dated November 16, 2007, Jim Sebastian at DDOT confirmed that the agency desires the Applicant to make a monetary contribution of \$55,000 to fund the construction of the Metropolitan Branch Trail connection, in lieu of constructing the improvement. For your reference, a copy of the correspondence is attached.

In light of the foregoing, we propose that Condition No. 10 of Zoning Commission Order 05-23A read as follows:

"The Applicant shall enter into an agreement with DDOT and the District Office of Partnerships and Grants Development (OPGD) for a monetary contribution by the Applicant in the amount of \$55,000 for the construction of a connection to the Metropolitan Branch Trail consisting of a ten (10) foot wide path, pedestrian solar scale lighting, and call box(es). No building permit shall be issued for the project until DDOT provides a written statement to the Zoning Administrator acknowledging receipt of said contribution."

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Thank you for your considerate attention to this matter.

Sincerely,

HOLLAND & KNIGHT, LLP

Leila Batties

Leila M. Jackson Batties

Attachment (1)

CC: Ms. Anita Bonds, Chair, Advisory Neighborhood Commission 5C (via U.S. Mail)
Ms. Jennifer Steingasser, Office of Planning (via hand delivery)
Mr. Steve Cochran, Office of Planning (via hand delivery)
Mr. Kenneth Laden, Dept. of Transportation (via hand delivery)
Mr. James R. Sebastian, Dept. of Transportation (via hand delivery)
Alan Bergstein, Esq., Office of the Attorney General (via email)
Jacob Ritting, Esq. Office of the Attorney General (via email)

Batties, Leila M J (MIA - X27626)

From: Sebastian, Jim (DDOT) [Jim.Sebastian@dc.gov]
Sent: Friday, November 16, 2007 4:08 PM
To: Batties, Leila M J (MIA - X27626); Sebastian, Jim (DDOT); Laden, Ken (DDOT)
Cc: ssimone@tcreidential.com; Glasgow, Jr., Norman M (WAS - X72460); Ritting, Jacob (OAG)
Subject: RE: TIME SENSITIVE -- DDOT Report for ZC Case No. 05-23A

Our desire is to have you fund, but not build, the trail.

-jim

James R. Sebastian, AICP
Manager, Bicycle, Pedestrian, and
Transportation Demand Management Programs
Transportation Policy and Planning Administration
District Department of Transportation
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d.

From: leila.batties@hklaw.com [mailto:leila.batties@hklaw.com]
Sent: Friday, November 16, 2007 12:58 PM
To: Jim.Sebastian@dc.gov; ken.laden@dc.gov
Cc: ssimone@tcreidential.com; norman.glasgowjr@hklaw.com; Jacob.Ritting@dc.gov
Subject: TIME SENSITIVE -- DDOT Report for ZC Case No. 05-23A
Importance: High

<<1018092125 (2).pdf>>

Ken & Jim:

Attached please find the DDOT Report for Zoning Commission Case No. 05-23A. At the public hearing for the application, the applicant agreed to accept all of the recommendations in the report, including that the applicant "enter into a partnership agreement with DDOT to construct a connection to the Metropolitan Branch Trail consistent with Zoning Commission Order 05-23."

Condition No. 9 of Zoning Commission Order 05-23 reads: "The Applicant shall design and construct a connection to the Metropolitan Branch Trail consisting of a ten (10) foot wide path, pedestrian solar scale lighting,

and call box(es). The Applicant shall enter into an agreement with DDOT and the District Office of Partnerships and Grants Development (OPGD), regarding the Applicant's maintenance of the connection to the Metropolitan Branch Trail and DDOT's ownership and maintenance of the connection to the Metropolitan Branch Trail. The proposed construction of the connection to the Metropolitan Branch Trail shall occur concurrently with the construction of the first residential building. In the event the cost of the design and construction of the trail connection is less than \$55,000, the Applicant shall contribution the balance to the organizations listed as receiving financial contributions in Paragraph 2 above. No Certificate of Occupancy for the first building shall be issued until DDOT provides a written statement to the Zoning Administrator indicating that the construction has been accepted by DDOT."

Prior to the staff report, we were advised that DDOT had no objection to the applicant making a monetary contribution of \$55,000 for the construction of the MBT connection, in lieu of the applicant making said improvement. Based on discussions with OP and DDOT after the report was issued, it was our understanding that DDOT's recommendation that the applicant "enter into a partnership agreement with DDOT to construct a connection to the Metropolitan Branch Trail consistent with Zoning Commission Order 05-23" was intended to allow the applicant to make the monetary contribution (through OPGD) for the construction of the MBT connection, and the connection shall be constructed according to the specs provided in ZC Order 05-23. That is the MBT connection shall consist of a ten (10) foot wide path, pedestrian solar scale lighting, and call box(es).

It is my understanding that the recommendation in the DDOT report was NOT intended to require the applicant to construct the MBT connection in lieu of making the contribution. Can you please clarify the Department's position via email? The Office of the Attorney General has requested clarification on this matter this afternoon, because the application is scheduled for final action by the Zoning Commission on Monday evening and the materials must be forwarded to the Zoning Commission today.

Thank you for your prompt consideration of this matter. Please call me directly at (202) 419-2583 if you have any additional questions or concerns.

Thanks,
Leila

Holland + Knight

Leila Batties

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