

January 4, 2006

Chairperson Carol J. Mitten and Members
D.C. Zoning Commission
One Judiciary Square, Suite 210 South
441 4th Street N.W.
Washington, D.C. 20001

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D.C. OFFICE OF ZONING

RECEIVED

**RE: Pre-Hearing Submissions Requested by the Office of Planning, ZC Case No. 05-36
(First Stage & Consolidated PUD & Related Map Amendment-200 K Street N.E.)**

Dear Chairperson Mitten and Members:

This responds to the Final Report of the Office of Planning (OP), filed December 27, 2005, in the above-referenced case, which listed six additional information items that we should file prior to the hearing, described in subsections a. through f. of Section IX.-Remaining Issues (p. 12). These are provided below, showing the Applicant's response following each quoted subsection from Section IX.

OP/IX. a. Providing additional information on the relationship between the requested 0.4 bonus density requested under § 2406.3 and the provision of approximately 78 units of affordable housing. *(Prior to public hearing)*

Applicant Response: The OP Report (p. 10) noted the Applicant's statement that the 0.4 FAR bonus "provides approximately 40,433 square feet, enough for approximately 37 residential units," making it "economically feasible to provide the total of approximately 78 affordable units at below-market rates." OP asked that we elaborate on why the 78 units "cannot be provided without the additional FAR."

Our calculations show that if these 37 units were eliminated, the remaining 587 market-rate units would have to be sold at an average price of \$353,190 in order to offset the losses incurred by the sale of 78 affordable units. This is too high to assure that the market-rate units would sell quickly, it would substantially increase the investment risk to an unacceptable level, and it would make it economically infeasible to provide the number of affordable units the Applicant has proffered.

By contrast, with the 37 units provided by the 0.4 FAR bonus, the Applicant will be able to keep the average sales price of the market-rate units in the range of \$332,000 – high enough to offset the affordable-unit losses, but low enough to attract buyers, hold the risk to an acceptable level, and make the project economically feasible.

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Our calculations are based on an estimated per-unit development cost of \$260,000, and an estimated average affordable-unit sales price of \$150,000.¹ The DC Department of Housing and Community Development (DHCD) sets the sale price of the affordable units at a level to assure that the buyer pays no more than 30% of household income in housing costs. We believe \$150,000 is a reasonable estimate for the affordable-unit sales price average, spread over one-bedroom, one-bedroom-plus-den, and two-bedroom units.

Based on these estimates, the Applicant's financial loss on the affordable units could be in excess of \$100,000 per unit. The market-rate units have to be priced high enough to offset the loss, but not so high as to deter prospective buyers. The Applicant cannot achieve such a delicate market balance without the 37 units the 0.4 bonus FAR would provide.

OP/IX. b. Clarifying whether a variance from § 400.7 or § 411 is needed for any roof structure setbacks in the Consolidated PUD (*Prior to public hearing*)

OP/IX. c. Requesting relief from § 411.3's prohibition on multiple roof structures. (*Prior to public hearing*)

Applicant Response: The Zoning Regulations require that rooftop mechanical equipment and stairway and elevator penthouses "shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located" (§ 400.7 (b)), "shall not exceed eighteen feet, six inches (18 ft., 6 in.)" above the roof (§ 400.7(c)), and shall comply with the provisions of § 411. Section § 411.3 requires that "all penthouses and mechanical equipment shall be placed in one (1) enclosure..." However, § 411.4 provides that "when roof levels vary by one (1) floor or more or when separate elevator cores are required, there may be one (1) enclosure for each elevator core at each roof level."

In response, the Applicant revised the Phase 1 roof plan to conform to the regulatory specifications. The revised Sheet A1.11 and revised Elevations (Sheets A2.00, A2.01, and A2.02) reflecting the roof-plan changes are provided in Attachment 2. The revised plans show that the mechanical equipment and elevator/stair towers are consolidated into one roof structure atop the ten-story portion of the building and a second roof structure atop the seven-story portion. Due to these changes, we think a variance is unnecessary.

OP/IX. d. Clarifying the location of loading facilities required by §2201.1 for the retail space at 3rd and K Streets. (*Prior to public hearing*)

Applicant Response: Attachment 2 includes, as the final page, a revised Sheet C.12-Circulation Plan, highlighting the Drop Off Zones and reflecting the addition of a Loading Zone adjacent to the Drop Off Zone in front of the retail space to be located at the 3rd and K Streets corner of the

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Phase I building. The extended Drop Off/Loading Zones will provide delivery access to the small shops to be located in the 3,699 gross square feet (gsf) of retail space at this corner. The Applicant will work with the District Department of Transportation (DDOT) to assure that these Drop Off Zones and the additional street-side Loading Zone comply with DDOT regulations, including applying for and securing public space permits for curb cuts as necessary.

OP/IX. e. Clarification (regarding) how the project meets the residential recreation space requirements of § 773.3 (*Prior to public hearing*)

Applicant Response: Section 773.3 requires residential buildings to provide residential recreation space of at least 10% of residential gross floor area in C-3-C zone districts and at least 15% in C-2-B zone districts. In both cases, at least 50% of the recreation space must be outdoors.

The Phase 1 building is comprised of 187,239 residential gsf in the C-2-B portion for which no zone change has been requested and 45,967 residential gsf in the C-M-3 portion for which rezoning to C-3-C is requested. Fifteen percent (15%) of 187,239 gsf is 28,085 gsf, and ten percent (10%) of 45,967 gsf is 4,597 gsf, for a total of 32,682 gsf of required residential recreation space for Phase 1.

The Phase 2 building, all of which is in the C-M-3 area proposed for rezoning to C-3-C, is designed to have 598,635 residential gsf; ten percent (10%) equals 59,864 gsf. Altogether, the Union Place project would be required to provide 92,546 gsf of residential recreation space.

The Phase 1 building features a 3,885-gsf landscaped and paved patio on the roof of the seven-story portion for recreation use by residents. The 27,984-gsf central courtyard provides an additional recreation amenity for residents of both buildings. We anticipate that additional residential recreation space will be in the rooftop design of the Phase 2 building; the amount is undetermined as yet, and will be provided in detail in the submission of the Second-Stage PUD application for the Phase 2 building.

The Phase 1 rooftop recreation amenity, plus the central courtyard, total 31,869 gsf, which is 60,677 gsf less than the regulations require.

We note that the amount of residential recreation space required in C zone districts has been widely recognized as excessive and difficult to meet for a growing number of residential buildings being developed in otherwise commercial areas. In proposing clarifying text amendments to the Zoning Commission on February 14, 2005, OP wrote:

“For a wide variety of reasons, the residential recreation space provisions have proven difficult in many instances. The Board of Zoning Adjustment (BZA) and the Zoning Commission have also reviewed and approved many requests for relief from the requirement.... The difficulty in providing this space was first

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requirement to 5% within the Downtown District (DD) Overlay (Zoning Commission Order 943)....

“As a result of the difficulty in meeting these requirements, there have been requests from the Zoning Commission, the Board of Zoning Adjustment (BZA), and the public to review and amend these regulations to be more in line with current standards and expectations. The Office of Planning (OP) and the District Department of Parks and Recreation (DPR) have initiated work to address this as part of a broader initiative on the part of DPR to assess park and recreation space needs and provision throughout the District. A comprehensive review of residential recreation space requirements is anticipated following completion of this study in about one year.” *[OP Memorandum to the Zoning Commission, Zoning Commission Case No. 05-02 – Residential Recreation Space Text Amendment, February 14, 2005, p. 2.]*

Consistent with prior Zoning Commission and BZA actions granting relief from the residential recreation space requirements in C zone districts, the Applicant requests that the Zoning Commission include a variance from the requirements of § 773.3 in an order approving the Consolidated PUD and Preliminary PUD, with the final amount required to be determined in the Second-Stage PUD process.

We note also that Union Place residents will have convenient access to three relatively close public recreation centers – J. O. Wilson Recreation Center, 660 K Street NE (3 ½ blocks to the east); Ludlow Taylor Recreation Center, 7th and G Streets NE (7 blocks to the southeast), and Sherwood Recreation Center, 10th and G Streets NE (10 blocks to the southeast). Sherwood, which reopened in October 2003 after a major renovation, provides a full-size gymnasium, an exercise room, social hall/community center, daycare center, an outdoor basketball court and tennis courts, and an outdoor children’s playground, picnic area, and walking track.

OP/IX. f. Providing information on the impact of the proposed PUD on the water and sewer systems, or the schools’ capacity.

Applicant Response:

Water/Sewer – Updated water and sewer usage estimates are shown on the table below. This is a revision of the Estimated Water and Sanitary Sewer Usage table previously provided on Sheet C.9-Utility Layout Plan of the architectural drawings.



manatt | phelps | phillips

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<u>ESTIMATED WATER AND SANITARY SEWER USAGE</u>		
<u>PHASE I</u>		
RESIDENTIAL		
A. NUMBER OF UNITS	202	
B. TOTAL POPULATION (2.3 PEOPLE PER UNIT)	465	
C. ESTIMATED GALLONS PER PERSON PER DAY	80	GPCD
D. TOTAL AVERAGE DAILY FLOW	37,168	GPD
E. PEAK FLOW (PEAK FACTOR = 6)	223,008	GPD
	(0.188 MGD)	
RETAIL		
A. AMOUNT OF RETAIL SPACE	3,217	SF
B. TOTAL POPULATION (1 PERSON PER 200 SF)	16	
C. ESTIMATED GALLONS PER PERSON PER DAY	15	GPCD
D. TOTAL AVERAGE DAILY FLOW	241	GPD
E. PEAK FLOW (PEAK FACTOR = 6)	1,448	GPD
	(0.001MGD)	
	0.189 MGD	
<u>PHASE II</u>		
RESIDENTIAL		
A. NUMBER OF UNITS (ESTIMATED)	500	
B. TOTAL POPULATION (2.3 PEOPLE PER UNIT)	1,150	
C. ESTIMATED GALLONS PER PERSON PER DAY	80	GPCD
D. TOTAL AVERAGE DAILY FLOW	92,000	GPD
E. PEAK FLOW (PEAK FACTOR = 6)	552,000	GPD
	(0.287 MGD)	

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RETAIL		
A. AMOUNT OF RETAIL SPACE	12,000	SF
B. TOTAL POPULATION (1 PERSON PER 200 SF)	60	
C. ESTIMATED GALLONS PER PERSON PER DAY	15	GPCD
D. TOTAL AVERAGE DAILY FLOW	900	GPD
E. PEAK FLOW (PEAK FACTOR = 6)	5,400	GPD
	(0.003 MGD)	
COMMERCIAL		
A. AMOUNT OF RETAIL SPACE	303,602	SF
B. TOTAL POPULATION (1 PERSON PER 200 SF)	1,518	
C. ESTIMATED GALLONS PER PERSON PER DAY	15	GPCD
D. TOTAL AVERAGE DAILY FLOW	22,770	GPD
E. PEAK FLOW (PEAK FACTOR = 6)	136,621	GPD
	(0.136 MGD)	
	0.426 MGD	
TOTAL ESTIMATED WATER AND SANITARY SEWER USAGE	0.615 MGD	

The 6" domestic water line and the 8" fire service line connections for both phases are shown on the Utility Layout Plan (Sheet C.9) and will tie into an existing 8" line which feeds off of a 24" water main on K Street. This system will ultimately be designed during the final engineering phase of the project and will likely be looped with a second connection to an existing 8" line on L Street NE. The Applicant's engineers of the Bowman Consulting Group ("Bowman") are awaiting the results of a fire flow test submitted to WASA (Water & Sewer Authority) in November 2005 to see if there is anything special that might be required if the pressure is not adequate.

Union Place sewer laterals will tie into the combined stormwater and sanitary sewer system. During the final engineering, the Bowman team will determine if any special storage is required to meet adequate outfall requirements. But with some water quantity storage on the green roof and the proposed stormwater vaults, Bowman expects that the project will receive the credits required in order to obtain DC Department of Health approval without having to install expensive stormwater storage systems. Bowman also reports that two existing large pipes (3' x 4 5') and (2 25' x 3 375') on K Street and I. Street will handle both stormwater and

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sanitary runoff from Union Place, but the existing lines which feed into those pipes are on Union Place property and will likely need to be replaced.

Schools – Regarding the impact on the public school system, the Union Place location is within the boundaries of J. O. Wilson Elementary School, 660 K Street NE; R. H. Terrell Junior High School, 1000 First Street NW; and Dunbar Senior High School, 1301 New Jersey Avenue NW. DC Government listings show:

- J. O. Wilson has a capacity of 446 students in Preschool through Grade 6, and a current enrollment of 416;
- R. H. Terrell has a capacity of 546 students in Grades 7-9, and a current enrollment of 284; and
- Dunbar has a capacity of 993 students in Grades 9-12, and a current enrollment of 912.

DC Public Schools (DCPS) listings of per-school spaces available for out-of-boundary applicants for the 2006-2007 school year show that J. O. Wilson will have 39 spaces available, R. H. Terrell will have 510 spaces available, and Dunbar will have 30 spaces available. Thus, all of the three public schools serving the Union Place development are below capacity.

In addition, two DC Public Charter Schools and three private schools are located in the general vicinity of Union Place, offering schooling options to residents who may seek alternatives to the DCPS neighborhood schools. These are:

- The Sasha Bruce Public Charter School, which presently has 197 students in Grades 6-9, is located at 1375 E Street NE and is working to add one grade level each year until reaching a full capacity of 250 students in Grades 6-12.
- The Options Public Charter School, which presently has 183 students in Grades 5-8, is also located at 1375 E Street NE.
- The private Cornerstone Community School, with 60 students in Grades K-6, is located at 907 Maryland Avenue NE.
- The private Capitol Hill Day School, with approximately 250 students in Grades PreK-8, is located at 210 South Carolina Avenue NE, and advertises the current availability of 24 Pre-Kindergarten openings and from 2-4 openings in each of Grades K-8.
- The private Gonzaga High School, with 892 students in Grades 9-12, is located at 19 I Street NW and accepts admission applications annually in December.

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When both phases are developed and occupied, we estimate the Union Place population of school-age children (ages 5-17) will be from 240-260. This is based on Census 2000 data showing that the school-age population of Census Tract 85 (which includes Union Place) was 19% of the total Census Tract population in 1999. Census data also shows that the average household size in Census Tract 85 was 1.97 persons in 1999. At an average of 1.97 persons/household, the 702 Union Place units can be estimated to house 1,382 persons. If 19% of them are school-age children, Union Place's school-age population would be 262.

But the demographics of the Near Northeast neighborhood have changed rapidly and dramatically since the 1999 surveys that produced the Census 2000 numbers. In this neighborhood, as in the city as a whole, the population of school-age children is declining while the population of childless households is increasing.

Due to these trends, the current under-enrollment of the neighborhood public schools, and the relatively convenient access to charter and private schools in the Union Place vicinity, we believe the city's education network is well able to accommodate the school-age children residing at Union Place.

In addition to the above-listed pre-hearing requests, the OP Final Report identified six other documents/information items (OP Final Report, Section IX, subsections g. through l.) to be provided prior to Zoning Commission action on the application. As described below, we are able to provide most of this information now.

OP/IX. g. Clarifying the proposed times that the central plaza would be open to the public and what restrictions there would be on its usage. (*Prior to proposed action*);

Applicant Response: As previously stated, the Applicant commits to keeping the central plaza open to the public until 7:00 pm in the evenings. In response to ANC 6C comments, the Applicant has provided assurances that the plaza will be protected by the Union Place security system and security officers. As for restrictions on use, the plaza is designed for generally passive recreational pursuits (*i.e.*, social conversations, reading, painting, walking, photography, perhaps tossing a Frisbee). It will not be designed or equipped for organized sports or other vigorous activities, and there would be restrictions prohibiting such activities to assure the safety of all users. Littering and illegal activities will be prohibited. The presence of security officers is intended to deter such activities, and the security team will be instructed to contact police officers if law-enforcement action is necessary.

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OP/IX. h. Submitting general pervious surface specifications for the interim Consolidated PUD surface parking area that is to be located within the boundaries of the Preliminary PUD. (*Prior to proposed action*);

OP/IX. i. Submitting interim landscaping and maintenance plans for the Preliminary PUD area consistent with staging needs for the Consolidated PUD. (*Prior to proposed action*);

Applicant Response: The interim Consolidated PUD surface parking area is shown on Sheet L11 of Exhibit E in the Applicant's Case 05-36 submission filed November 29, 2005² Porous paver materials and specifications for the interim parking area are listed in notes on Sheet L11. This sheet also shows the design and identifies the plantings for interim landscaping of the Preliminary PUD area.

OP/IX. j. Specifying planting types for the Preliminary PUD landscaping and green roof areas. (*Prior to proposed action*);

Applicant Response: The planting types for landscaping of both the Consolidated and Preliminary PUDs are shown and identified in the landscape plans (Sheets L1 through L8) provided as Exhibit D in the November 29, 2005, submission.³ Specific plantings are listed in the "Plant List" on Sheet L4.

Plantings for the Consolidated PUD green roof are identified and illustrated on Sheets L9, L9.1, L9.2, and L9.3 of Exhibit D. The same "Green Roof Plant Choice List" as shown on Sheet L9.2 for the Consolidated PUD will be used for the Preliminary PUD green roof. The list includes 45 varieties of succulents and alliums growing to heights ranging from two inches to ten inches. For both green roofs, specific plant selections from this list will be based on availability at the time of planting.

OP/IX. k. Drafting an Affordable Housing Covenant for the Consolidated PUD. (*Prior to proposed action*);

Applicant Response: We can provide the draft Affordable Housing Covenant as soon as we receive OP's recommended template.

² Exhibit E is dated November 28, 2005, and titled "Initial Application and Pre-hearing Submission-Part B, Zoning Commission Case No. 05-36 (As originally submitted September 29, 2005, in Case No. 01-28TE, in response to requests from the Office of Planning)".

³ Exhibit D is dated November 28, 2005, and titled "Initial Application and Pre-hearing Submission-Part A, Zoning Commission Case No. 05-36 (As originally submitted September 13, 2005, in Case No. 01-

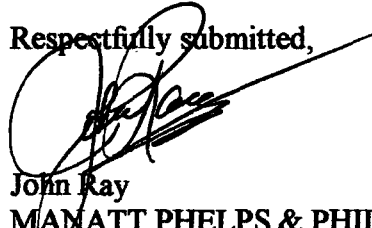
Chairperson Carol J. Mitten and Members
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OP/IX. I. Updating the 1995 LSDBE Contracting MOA. (Prior to proposed action);

Applicant Response: On September 26, 2005, the Applicant provided the Office of Local Business Development (OLBD) with the necessary documentation to complete the updated LSDBE Memorandum of Understanding. OLBD staff has assured us the MOU will be completed and ready for execution on or before the January 5th hearing.

We trust this information will be helpful to the Commission, OP, and other reviewers as we all prepare for the January 5th hearing.

Respectfully submitted,



John Ray
MANATT PHELPS & PHILLIPS
Counsel to the Applicant

Attachments:

- 1) Details Of The Calculations Regarding The Need For The 0.4 Far Bonus
- 2) Revised Drawings:
 - Sheet A1.11 – Revised Roof Plan
 - Sheet A2.00 – Revised Elevation
 - Sheet A2.01 – Revised Elevation
 - Sheet A2.02 – Revised Elevation
 - Sheet C.12 – Revised Circulation Plan

Chairperson Carol J. Mitten and Members
D.C. Zoning Commission
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document and its attachments were served upon the following by E-MAIL AND/OR HAND-DELIVERY on January 4, 2006 to:

Ellen McCarthy, Director
D.C. Office of Planning
801 North Capitol Street NE, Fourth Floor
Washington, D.C. 20002

Commissioner Mark Dixon, Chairman
Advisory Neighborhood Commission 6C
80 New York Avenue N.W., # 402
Washington, D.C. 20001

and by E-MAIL to:

ANC 6C03 Commissioner Lena A. Brown
lbrown3117@aol.com

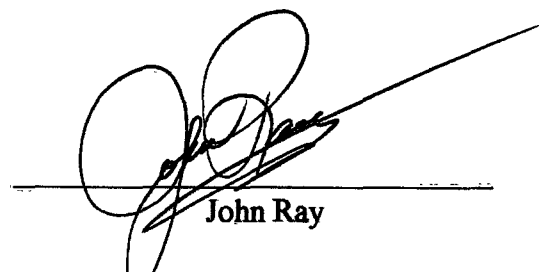
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John Ray

DETAILS OF THE CALCULATIONS**REGARDING THE NEED FOR THE 0.4 FAR BONUS**

The OP Report (p. 10) took note of the Applicant's statement that the 0.4 FAR bonus "provides approximately 40,433 square feet, enough for approximately 37 residential units," making it "economically feasible to provide the total of approximately 78 affordable units at below-market rates." OP asked that we elaborate on why the 78 units "cannot be provided without the additional FAR."

Because the Applicant has not yet fixed the sales price of the market-rate units, we are unable to provide exact dollar calculations. However, we can use certain reasonable assumptions to demonstrate the need for the 0.4 FAR bonus.

Assume, first, that the per-unit development cost is \$260,000, for a 702-unit project with a total residential development cost of \$182.5 million. Assume, also, that the Developer seeks a 20% return on investment. (This is a hypothetical figure, based on the OP benchmark of trying to "maintain a target return for condominiums between 20%-21% profit on the total development cost" in its Inclusionary Zoning proposal.¹) To yield a 20% rate of return, the average per unit sales price would have to be \$312,000. Sales of all of the approximately 702 units would have to yield approximately \$219 million.

Assume that all 78 of the affordable units will be for-sale (rather than rental) units.² The sale price of the affordable units is fixed by the DC Department of Housing and Community Development at the amount necessary to assure that the buyers pay no more than 30% of their household income in housing costs, including mortgage payments and condominium fees. For purposes of this discussion, assume that the average sales price of the 78 affordable units is \$150,000.

In this scenario, the sale of the 78 affordable units would yield \$11.7 million, and the sale of the remaining 624 market-rate units would yield \$194.7 million, for a total of \$206.4 million – a 13% rate of return. To achieve a 20% rate of return, the 624 market-rate units would have to be priced at an average of \$332,200 to offset the losses incurred in the sale of the affordable units. At \$332,200, the sale of 624 units would yield \$207.3 million which, combined with \$11.7 million from the sale of the affordable units, totals \$219 million and provides a 20% rate of return.

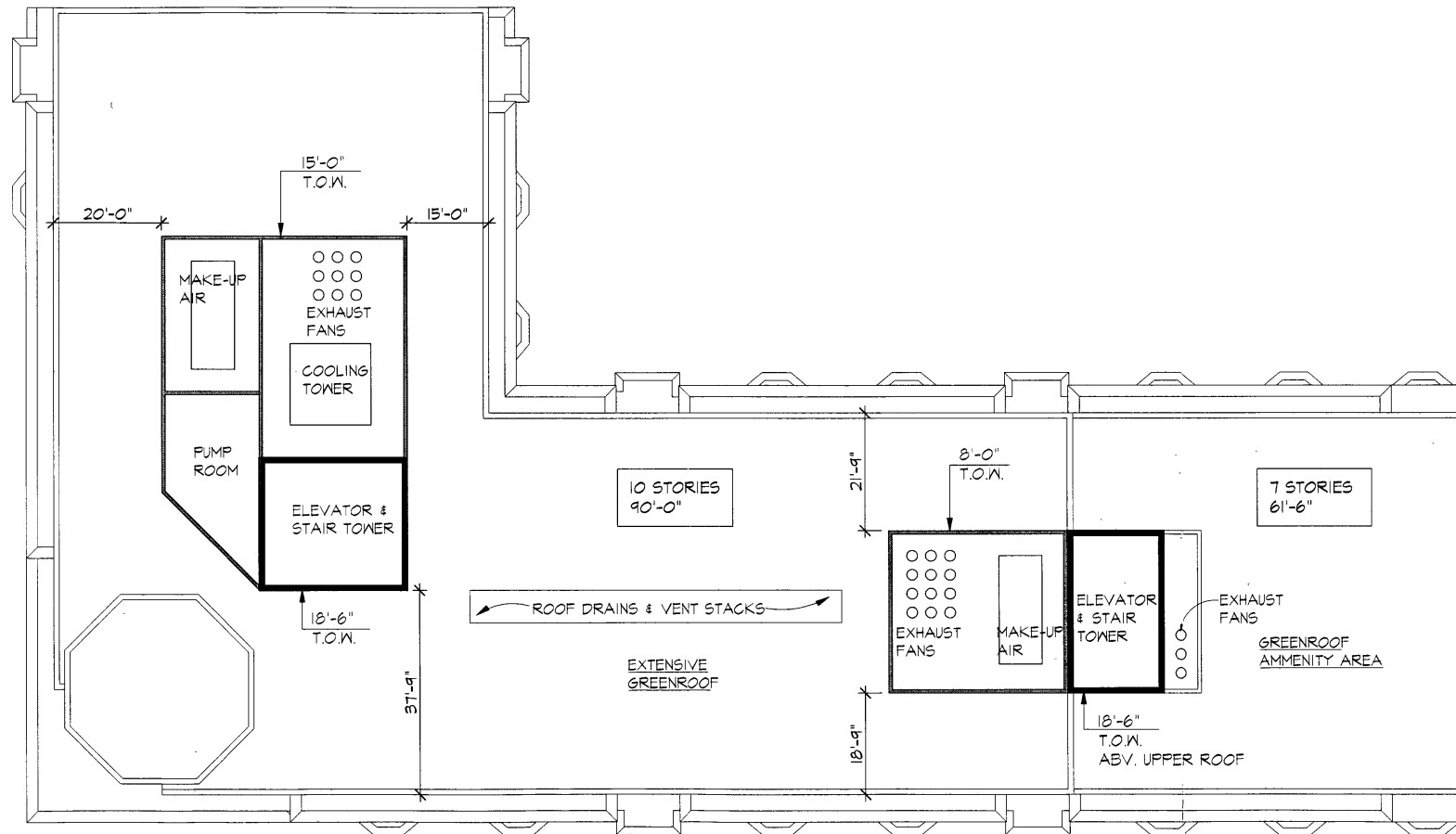
Assume, then, that the 37 units that would be allowed by the 0.4 FAR bonus are subtracted from the total number of market-rate units, leaving only 587 to be sold at an average of \$332,200, yielding \$195 million. This amount, plus the \$11.7 million for the 78 affordable units totals \$206.7 million – providing only a 13.2% rate of return. In this case, the average sales price of the 587 market-rate units would have to be raised to \$353,193 to generate \$207.3 million which, with the \$11.7 million from sales of the affordable units, would provide total sales revenue of \$219 million and a 20% rate of return.

An average market-unit sales price in excess of \$353,000 would substantially increase the investment risk to an unacceptable level and would make it economically infeasible to provide the affordable units at the level the Applicant has committed.

¹ OP Report to the DC Zoning Commission, ZC Case No. 04-33, *Inclusionary Zoning*, Attachment-Economic Feasibility Analysis, July 15, 2005, at p. 1 of the Attachments.

² The Applicant has not made a final determination as to whether the Phase 2 units will be for-sale or

K STREET, N.E.



3RD STREET, N.E.

11 ROOF PLAN
SCALE 3/8" = 1'-0"



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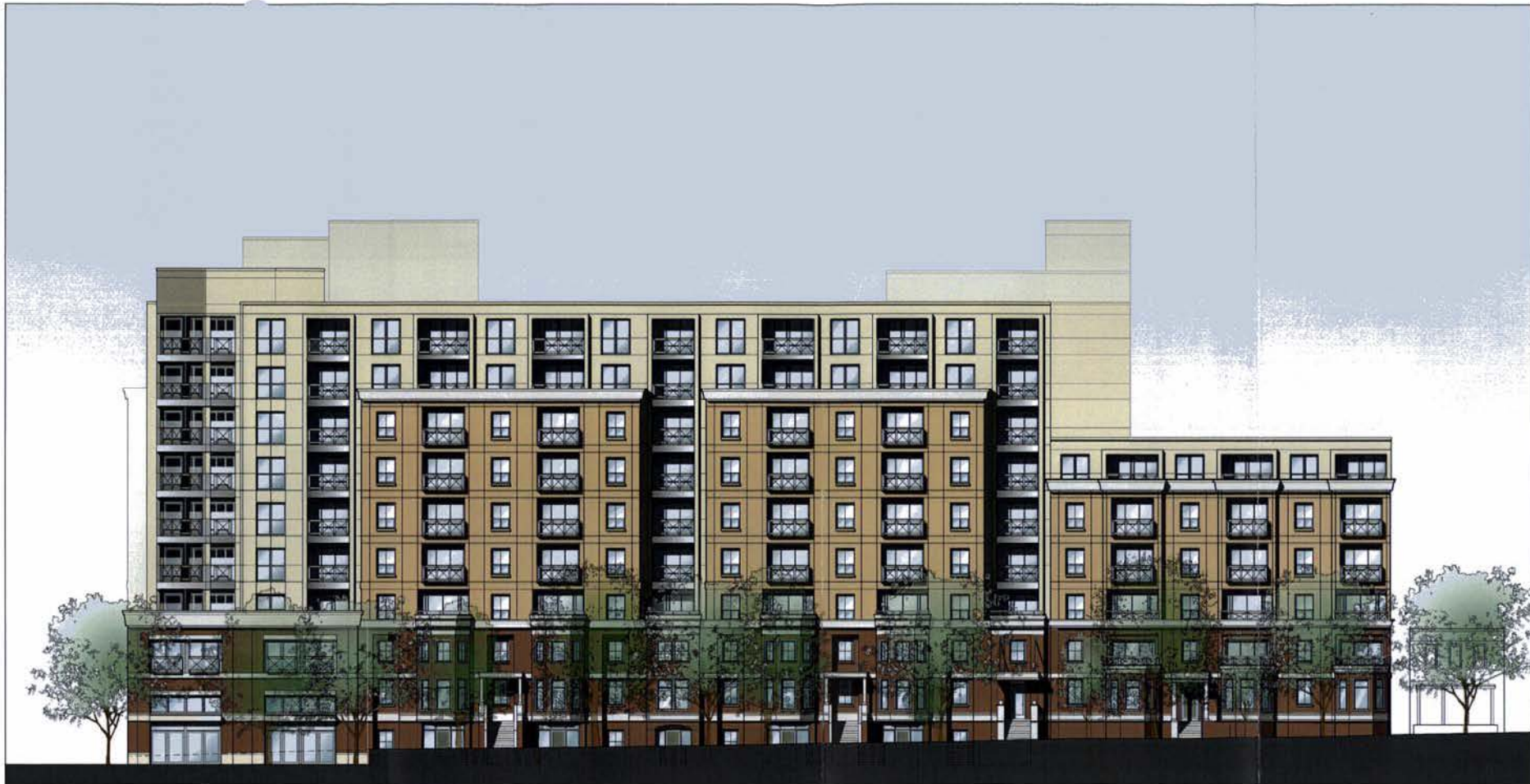
UNION PLACE

REVISIONS
04-13-05
04-24-05
ANC 12-T-05
12-12-05
1-3-06

SEAL:

DRAWN BY: SEG
CHECKED BY: CEH, RJC
SCALE: AS NOTED
DATE: 1-3-06
PROJECT NO: 03.0315
DRAWING NO:

A1.11



① 3RD STREET ELEVATION - LOOKING WEST
SCALE: NTS

GTM

GTM ARCHITECTS

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ANC 12-7-05
12-12-05
1-3-06

SEAL

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CHECKED BY:	CEH, RJC
SCALE:	AS NOTED
DATE:	1-3-06
PROJECT NO:	03.0315
DRAWING NO:	

A2.00



1 K STREET ELEVATION - LOOKING NORTH
SCALE: NTS

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ANC 12-1-05
12-12-05
1-3-06

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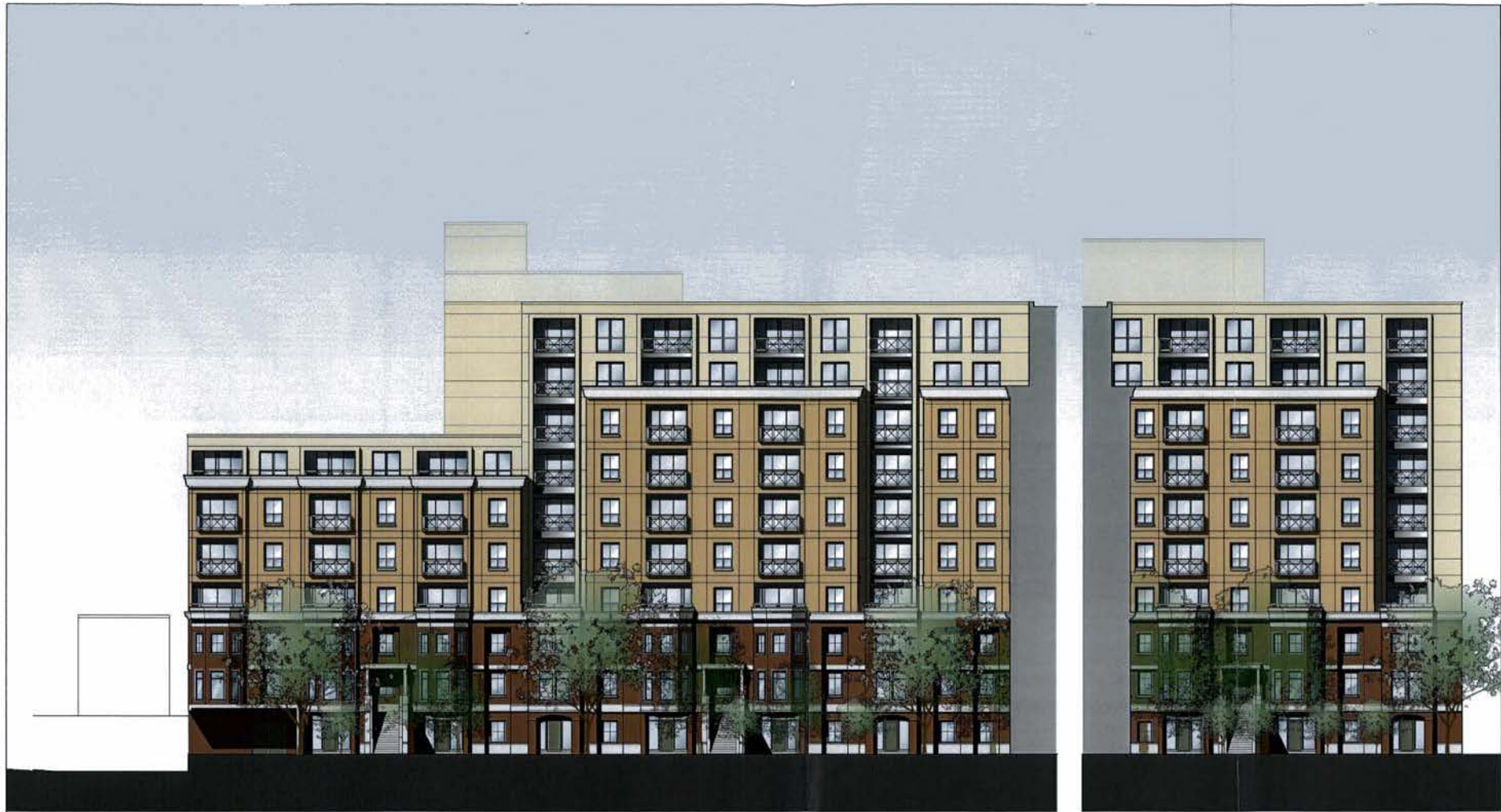
SCALE: AS NOTED

DATE: 1-3-06

PROJECT NO: 03.0315

DRAWING NO:

A2.01



1 COURTYARD ELEVATION - LOOKING EAST
SCALE: NTS

2 COURTYARD ELEVATION - LOOKING SOUTH
SCALE: NTS



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REVISIONS:

04-13-05
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