

**MEMORANDUM**

TO: District of Columbia Zoning Commission
FROM: Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation
DATE: December 7, 2009
SUBJECT: Minor Modification Request – Consolidated Portion of PUD Case 05-36, Union Place

2009 DEC -8 PM 4:31

ZONING COMMISSION
District of Columbia

CASE NO. 05-36C

EXHIBIT NO. 10

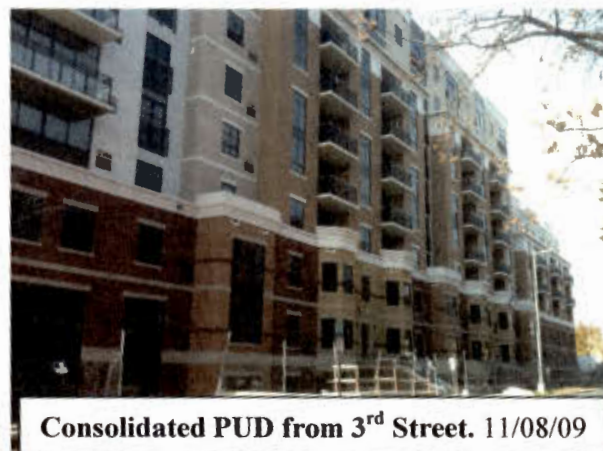
Applicant:	Union Place I, LLC
Site Address:	200 K Street, N.E.
Ward / ANC	Ward 6; ANC6++
Project Summary:	Primarily residential project bounded by 2 nd , 3 rd , K and L Streets, NE. Nearly completed Consolidated PUD: 202 units including 28-30 for households earning $\leq$ 80% AMI. Preliminary PUD: 500 units, including 50 for $\leq$ 80% AMI. Rent covenanted @ $\leq$ 30% of HH monthly income.
Date of Order Issuance:	April 20, 2006
Modification Requested:	Amend PUD and Affordable Housing Covenant to permit more flexibility in the percent of income that can be devoted to housing costs, while retaining the absolute limit on household income at 80% of AMI.
OP Recommendation	Approve, with clarifications to which the applicant has agreed, as Minor Modification.

BACKGROUND

Each year the U.S. Department of Housing and Urban Development (HUD) determines an Area Median Income (AMI) for a locality. From this, HUD calculates the income earned by varying household sizes at certain benchmark levels of the AMI: e.g., 120%, 80%, 60%, and 30% of AMI. Typically, HUD and local housing agencies consider a rent affordable to an AMI level if the rent and certain other housing-related expenses is no more than 30% of the household's gross monthly income. This is the level contained in covenants accompanying the approved PUD.

DESCRIPTION OF THE MODIFICATION REQUEST

The applicant/developer of PUD 05-36 is required by covenants with the Zoning Commission and the Department of Housing and Community Development (DHCD) to reserve 28-30 units in the consolidated portion of the PUD for households earning no more than 80% of the Area Median Income (AMI). The applicant has arranged for these affordable units to be rented to practicing artists, in collaboration with the Cultural Development Corporation (CUDC) of Washington, D.C. Some artists are used having to pay more than 30% of their income toward housing expenses, or to having incomes that vary

Consolidated PUD from 3rd Street. 11/08/09

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considerably from month to month. Because of this, the CUDC has been working to develop language that would permit artists to elect to devote more than the covenanted 30%, of their monthly incomes to housing costs.

OP RECOMMENDATION

OP supports the Union Place I LLC request for a minor modification to two paragraphs in the covenant included with ZC Order 05-36. The proposed changes would give the applicant the flexibility to accommodate the varying income patterns experienced by some of the artists to which the affordable housing is targeted, yet would remain consistent with the proffers in the approved PUD. By focusing on percentage of income rather than rent levels, it effectively limits eligible households to those earning exactly 80% of the AMI and requires them to devote no more 30% of their income to housing expenses. An adjustment to the percent of monthly household income that a tenant of one of the PUD's affordable units could devote to housing costs would expand the pool of potentially eligible households to those earning something less than 80% of the AMI. As noted in the applicant's November 2, 2009 letter to the Commission, increasing the number of units affordable to artists would not be inconsistent with the Comprehensive Plan's objectives for the arts, the District's creative economy initiatives, or the administrative regulations of the IZ program.

OP recommends the Commission incorporate minor changes to Paragraph 3.a and b, to allow for the possibility of the affordable rental units converting to affordable for-sale units during the affordability-restriction period. This addition reflects comments OP received on December 4, 2009 from the Department of Housing and Community Development (DHCD), which is charged with enforcing the Order's covenants.

PROPOSED CHANGES

3. Affordable Housing – Household Eligibility Standards. Developer covenants that the affordable units shall be reserved for purchase by or rental to eligible households. Eligible households are defined as those households which:
 - a. Upon initial certification, have household annual income not exceeding 80% of the Area Median Income (AMI) for the Washington, D.C., Metropolitan Statistical area and adjusted for family size, as determined and published annually by the U.S. Department of Housing and Urban Development;
 - b. Meet other initial eligibility criteria, including not needing to devote more than the following percent of the household's income toward housing payments, as established by the D.C. Department of Housing and Community Development or any successor entity (referenced hereinafter as "DHCD" to include any successor entity) for participation in the District's Affordable Housing Program: thirty-eight percent (38%) for a rental unit, and forty-one percent (41%) for a for-sale unit; and
 - c. Have an income eligibility certification letter issued by DHCD; and
 - d. Upon extension or renewal of a lease, are in compliance with:
 - i. The income levels established in Paragraph 3.a., as averaged for the household's previous two years of income;

- ii. The requirements of Paragraph 3.b., other than, with the concurrence of the unit owner, the limitation on the percentage of household income that may be devoted to housing costs; and
- iii. The certification requirements of Paragraph 3.c.

Finally, **OP recommends** a clarification to simplify DHCD's processing, by employing the same housing cost determination methods as is used in the Inclusionary Zoning program.

- 4. Affordable Housing - Unit Cost. Developer covenants that the sale price and terms or the rental rate, as applicable, of the affordable units shall be determined by DHCD, in accordance with the regulations and procedures applicable to the District's Affordable Housing Inclusionary Zoning Program. [D.C. Code § 6-1041.01 (2007)], ~~so as to assure that the monthly housing payment of the buyer or renter shall not exceed thirty percent (30%) of the buyer's or renter's monthly household income, as defined by DHCD.~~

The applicant is fully supportive of the changes suggested by OP.

JLS / Stephen Cochran – project manager