



November 12, 2009

Chairman Anthony Hood 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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**RE: Supplement to the Request for Minor Modification of ZC Order No. 05-36,
(First Stage & Consolidated PUD & Related Map Amendment-200 K Street N.E.)**

Dear Chairman Hood and Members:

This supplements the request submitted on October 30 for a minor modification of ZC Order No. 05-36, effective October 13, 2006, ("Order") to permit a minor amendment to the Planned Unit Development and Affordable Housing Covenant ("Covenant") recorded with the D.C. Recorder of Deeds in conjunction with this case. We ask that you consider the October 30 request, with this supplement, as a Consent Calendar matter.

As you know, the Covenant provides for the Department of Housing and Community Development ("DHCD") to set the rental rates for the project's affordable housing units in accordance with the District's Affordable Housing Program regulations. After further review, and discussion with DHCD, we have determined that the Covenant revision that we proposed in our October 30 submission must be amended and revised to include provisions necessary to address the concerns raised therein.

Specifically, consistent with our original proposal, we need to ensure that the maximum rent for a particular unit is fixed, and not dependent on the income of a particular tenant. This is necessary for several reasons. First, if the allowable rent for a unit was dependent on tenant income, the owner would have a disincentive to rent to tenants with an income of anything less than 80% of AMI. Second, we need to be able to reasonably project our cash flow to provide project stability. Finally, if the rent were to vary with each tenant, it would present an administrative burden on both management and DHCD. Likewise, if we were to restrict approved applicants to only those who spend no more than 30% (or even 38 % as proposed in the initial revision) of their actual income on their total housing costs, we would severely limit the pool of those eligible to benefit from the Covenant. This proposed revision addresses those concerns.

Accordingly, we now propose to amend Paragraph 4 of the Covenant as follows:

ZONING COMMISSION
District of Columbia

CASE NO. 05-36C

2701 Tower Oaks Boulevard • Suite 200 • Rockville, MD 20852
301.692.1900 voice • 301.692.1901 fax

EXHIBIT NO. 10

ZONING COMMISSION
District of Columbia
CASE NO. 05-36C
EXHIBIT NO. 6

- “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 Program, so as to assure that the monthly housing payment of the buyer or renter **(regardless of income) shall not exceed an amount equal to thirty-eight percent (38%) of an income equivalent to 80% of the Area Median Income for the Washington, D.C., Metropolitan Statistical Area and adjusted for family size, as determined annually by the U.S. Department of Housing and Urban Development.** ~~thirty percent (30%) of the buyer’s or renter’s monthly household income, as defined by DHCD.~~”

For purposes of illustration, assume \$60,000 per year is 80% of AMI for a single person in a one-bedroom unit. The total allowable housing cost for that unit (i.e. inclusive of rent and any utility allowance) would be calculated as follows:

$\$60,000 \times .38/12 = \1900 maximum allowable total monthly housing cost for that unit

Anything else in the Covenant to the contrary notwithstanding, the maximum allowable total housing cost for any unit shall be fixed, and determined without regard to the actual income of any household.

With these additional details in the Covenant amendment, we will be able to achieve the flexibility set forth in our October 30 submission as the reason for seeking the minor modification.

Our proposed minor modification of the Order follows:

In the DECISION portion of the Order:

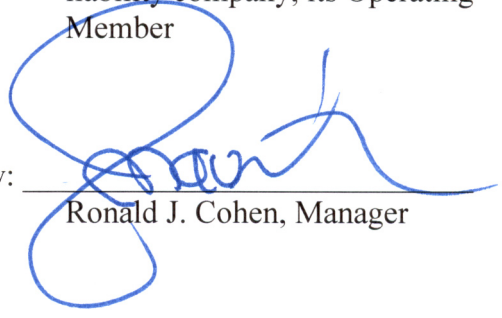
- “13. The covenant required by Condition No. 6 shall be the Draft Covenant provided as Attachment 2 in the *Applicant’s Post-Hearing Submissions, January 20, 2006*, revised ~~only~~ to provide the correct metes-and-bounds descriptions of the lots and parts of lots contained in the Consolidated PUD, **and as revised with the approval of the Commission this date and attached hereto .**”

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Thank you for accepting this supplement and for your consideration of our request.

Respectfully submitted,

UNION PLACE PHASE I, LLC
a Delaware limited liability company
By: Union North Phase I, LLC
a District of Columbia limited
liability company, its Operating
Member

By: 
Ronald J. Cohen, Manager

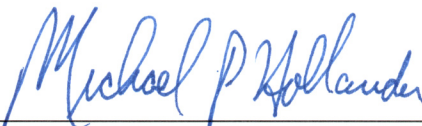
CERTIFICATE OF SERVICE

I hereby certify that a copy of this document were served upon the following by
COURIER DELIVERY and/or E-MAIL TRANSMISSION on November 12, 2009 to:

Harriet Tregoning, Director
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Washington, D.C. 20009

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Michael P. Hollander