

**MEMORANDUM**

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

DATE: November 13, 2009

SUBJECT: Minor Modification Request – Consolidated Portion of PUD Case 05-36, Union Place

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Applicant:	Cohen Companies
Site Address:	200 K Street, N.E. in Square bounded by 2 nd , 3 rd , K and L Streets, N.E.
Ward / ANC	Ward 6; ANC6C
Project Summary:	Nearly completed Consolidated PUD contains 202 units including 30 for households earning $\leq$ 80% AMI. Preliminary PUD would have 500 units, including 50 for $\leq$ 80% AMI. Project has some retail space.
Date of Order Issuance:	April 20, 2006
Modification Requested:	PUD Order now incorporates an affordable housing covenant with DHCD limiting rent and price to 30% of the monthly income of the household occupying the affordable unit. Applicant requests amendments to increase household's allowable housing costs to up to 38% of household income.
OP Recommendation	Set down as a major modification.

BACKGROUND: Each year the U.S. Department of Housing and Urban Development (HUD) determines an Area Median Income (AMI) for a metropolitan region. 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, a rent or sales price is considered to be affordable to an AMI level if that rent and certain other housing-related expenses are no more than 30% of the household's gross monthly income.

DESCRIPTION OF THE MODIFICATION REQUEST

The applicant/developer of the PUD is required by Zoning Commission Order No. 05-36 to reserve 28 units in the consolidated portion of the PUD for households earning no more than 80% of the Area Median Income (AMI). The Order incorporates an affordable housing covenant between the applicant and the Department of Housing and Community Development (DHCD) that limits the rent or sales price that can be charged to no more than 30% of the gross monthly income of the household occupying an affordable unit.

The consolidated portion of the PUD is nearing completion and the applicant has arranged for the affordable units to be rented to practicing artists, in collaboration with the Cultural Development Corporation (CDC) of Washington, D.C. Some artists are used to having to pay more than 30% of their income toward housing expenses, or to



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



having incomes that vary considerably from month to month. Because of this, the CDC 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, thereby giving more flexibility to the types of artist-households that would be eligible for the affordable units. Under the scenario the CDC has discussed with DHCD:

- Rent levels and other housing costs would continue to be limited to what a household earning exactly the 80% AMI benchmark income could afford if it devoted the traditional limit of 30% of its monthly household income to housing costs;
- To be able to meet the maximum rent described above, there would be a sliding scale for the percent of monthly income a household living in an affordable unit could pay towards its housing costs. The CDC and DHCD have discussed capping this at 38% of monthly household income.¹

This approach would allow some households earning less than 80% of the AMI to live in affordable units.

The proposed amendments the applicant submitted to the Zoning Commission would not achieve what the CDC and DHCD have been trying to accomplish. The proposed language would allow the applicant to increase rents to a point where even a households earning right at 80% of the AMI charge would need to pay 38% of its income towards housing costs. The rent would be more than what the applicant could charge under the existing order. It could result in narrowing the range of tenants who could afford to live in the affordable units, and/or to an effective increase to over 80% AMI of the incomes households living in affordable units would need to earn in order to qualify for the units.

OP RECOMMENDATION

The existing condition in the Order's affordable housing covenant is overly restrictive. It would be appropriate to amend it. An adjustment to the percent of monthly household income that a tenant 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 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 that the Commission *not* consider this request as a minor modification of "little or no importance or consequence". (11DCMR § 3030.2). The proposed modification needs to be refined to accomplish the CDC's objectives.

However, the Consolidated PUD building is nearing completion and it is desirable to see it occupied in a timely manner. **OP, therefore, recommends the Commission set down the request now as a major modification** and encourage the applicant to continue working with the CDC and OP before the public hearing to develop language that would:

- Retain the HUD determinations of what constitutes an affordable rent for the targeted benchmark AMI group, thereby not affecting the rental price that could be set for an affordable unit,
- Permit an otherwise eligible household to choose to devote a higher percentage (e.g., 38%) of its gross monthly income to housing expenses than the traditional 30% of such income, thereby expanding the base of the affordable unit-eligible households.

JLS / Stephen Cochran – project manager

¹ 38% is also used in the IZ administrative regulations.