

September 25, 2007

VIA HAND DELIVERY

D.C. Zoning Commission
Suite 210
441 4th Street, N.W.
Washington D.C. 20001

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Re: Zoning Commission Case No. 05-37 – Capitol Place
Response to Motion of ANC 6A and SPNA To Review this Application in a
Two Stage Proceeding

Dear Members of the Commission:

On behalf of the Applicant in the above-referenced case, we hereby respond to the Motion of Advisory Neighborhood Commission 6A ("ANC 6A") and Stanton Park Neighborhood Association ("SPNA") to Review this Application in a Two Stage Proceeding (the "Motion"). In the Motion, ANC 6A and SPNA request that the Zoning Commission bifurcate the above-referenced planned unit development ("PUD") from a consolidated PUD application to first- and second-stage PUD applications. The Applicant believes the Motion is without merit and should be denied.

The Zoning Regulations provide for a PUD process to be conducted as a one stage or two stage process. 11 DCMR § 2402.1. "An applicant may elect to file a single application for consolidated PUD review, consolidating the two-stage review into one proceeding." 11 DCMR § 2402.3. Assuming that an applicant decides to process a case as a consolidated PUD, it must show elements of both a first-stage and second-stage PUD as follows:

First Stage PUD: a general review of the site's suitability for use as a PUD, the appropriateness, character, scale, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development with city-wide, ward, and area plans of the District of Columbia, and the other goals of the PUD process.

Second Stage PUD: a detailed site plan review to determine compliance with the intent and purposes of the PUD process, the first stage approval and this title.

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11 DCMR § 2402.2(a-b). The Regulations then provide filing requirements based on the applicant's election of either a one stage or a two stage process. 11 DCMR § 2402.4.

In the present case, the Applicant has complied with all requirements for the filing of a consolidated PUD in both its application materials as well as its supplemental materials. The six submissions of the Applicant to the Zoning Commission provide sufficient information necessary for the Commission to make a decision in this case on a consolidated basis. In fact, the Zoning Commission has considered this application twice for set down: (1) first at its April 2006 public meeting at which time the Zoning Commission set down the case for hearing as a consolidated PUD; and (2) second at its February 2007 public meeting at which time the Zoning Commission again set down the case for hearing (with a revised rezoning plan) as a consolidated PUD. The Motion does not contain any allegation from ANC 6A and SPNA that the Applicant has not satisfied the requirements for a consolidated PUD.

Furthermore, ANC 6A and SPNA bring this request for bifurcation as an eleventh hour attempt to stall the process. The Applicant initially began working with the community on this project over two years ago. In an effort to continue discussions and coordination with the community, the Applicant has postponed the hearing on this case three times. Most recently, the Applicant has been engaged in a mediation process with the community. Throughout this process, no member of the mediation committee – of which both ANC 6A and SPNA were represented by the signatories of the Motion – raised the issue as to whether the project should be processed as a consolidated PUD. In fact, the mediation process itself was an effort to refine the project plans, including massing, height, fenestration and architectural design, which are the elements of both a first-stage and second-stage proceeding. The Applicant has closely worked with the community in an effort to reach consensus for the final design of the project. It is not appropriate or necessary for the process to be converted at this late date.

ANC 6A and SPNA base the request for bifurcation on the argument that the project is incompatible with the character, scale and design of the city-wide and local plans for this area. The Applicant disagrees. The project has been designed to respond to the different contexts for each façade of the project and has been designed such that the height and mass step down from the most dense corner at 2nd and H Streets, NE – adjacent to Senate Square and Station Place, each with an FAR and height greater than this project – to the lower scale transitions abutting the

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residential townhouses along 2nd and G Streets and the alley at the rear of the project. Thus, the proposed density for this project can be accommodated on-site with no adverse impacts.

Furthermore, the Office of Planning, in its report dated September 21, 2007, concluded that the proposed project is consistent with the Future Land Use Map and the Comprehensive Plan of 2006, the H Street NE Strategic Development Plan and the NoMA Vision Plan, all applicable to the subject site. Overall, the Office of Planning recommends approval of the project, finding that the character, scale and design of the project is appropriate for its location.

Finally, the Zoning Regulations require that the Commission judge, balance and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case. 11 DCMR § 2403.8. The Commission has more than sufficient information to review and evaluate these amenities and benefits in light of the additional height and density sought in order to determine whether this project is acceptable. It is not necessary to bifurcate this proceeding to make such determination, as the Commission is required to determine compliance with the standards for both a first-stage and second-stage PUD in a consolidated proceedings. Thus, the Motion has no merit and should be denied.

Should you have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact us.

Sincerely,



Wayne S. Quin



Christine Moseley Shiker

cc: Jennifer L Steingasser, Office of Planning
Travis Parker, D.C. Office of Planning
Advisory Neighborhood Commission 6C

(Via E-Mail)
(Via E-Mail)
(Via US Mail)

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