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MEMORANDUM

TO District of Columbia Zoning Commission
FROM Jennifer Steingasser Deputy Director Development Review & Historic Preservation *JS*
DATE July 3 2008
SUBJECT ZC Case Number 05-38A - PUD Modification Request
Marina View - 1100 6th Street SW, Ward 6 ANC 6D

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 05-38A
8
EXHIBIT NO. _____

I BACKGROUND

In late 2005 an application was received for the redevelopment of the residential site at 1100 6th Street SW consisting of a consolidated PUD and PUD-related map amendment from R5D to C3C. The site is located at the intersection of M Street SE and 6th Street SE, directly west of Waterside Mall (currently under reconstruction) and Arena Stage (also currently undergoing a major renovation). The proposal includes upgrading of two existing residential towers, the construction of two additional 112 feet tall residential towers at the north and south ends of the site with 285 - 315 residential units, underground parking for the existing and new residential towers, street level retail along M Street SW, construction of a recreation building for the use of residents, and restoration of a central courtyard for use by residents of all four towers. The Zoning Commission held a public hearing for this PUD application on February 28, 2007. The Commission subsequently took proposed action at its regular meeting of April 9, 2007, and took final action to approve the PUD at its May 14, 2007 meeting.

OP estimated that the FAR gained through the process was approximately 119,000 sq ft with an additional 22 feet of height over what would otherwise have been permitted by-right. The approved amenity package consists of the provision of affordable housing and both purchase and rental incentives for existing residents, the provision of ground floor retail along a major pedestrian corridor, resolution of shared lane access with Waterside Mall, upgrading the existing residential towers, green building design elements, improved facilities for residents of the development, and contributions to neighborhood schools and parks.

II SUMMARY OF PROPOSED PUD MODIFICATIONS

The current application includes modifications to building and landscape design, and to the amenity package. With respect to design, there are a number of relatively minor changes, largely at the upper level of the proposed new buildings and the lower level of the existing buildings, with more major changes to the east elevations of the new buildings, the design of the new recreation building, and the design of the central courtyard landscaping. The project has also changed in that it is not intended to be an entirely rental development, rather than the originally proposed mix of owned and rented units. This, in turn, has impacted the amenity package in that the home-ownership incentive for existing tenants has been eliminated - this was considered to be a significant amenity item, which now has been replaced. The applicant has proffered to compensate for the diminished amenity package by paying for the upgrading of a neighborhood park, and providing a contribution towards a new local bus shuttle service, to operate while the Waterside Mall site is under construction.

III OP ANALYSIS

Major Design Modifications

- *Redesign of the east façades of the new buildings* Changes include removal of the balconies, alterations to window design and placement, and introduction of an “arcade” separating the pedestrian way from the new alley between these buildings and Waterside Mall to the east. OP is not opposed to this design, and the simplified form and detailing may match buildings proposed for the Waterside Mall site. However, this elevation no longer matches other façades on these buildings. OP also has some concerns about the arcade at the base, as arcades can sometimes be perceived as less safe and inviting than a covered but open walkway as previously proposed. However, this is not envisioned as a major pedestrian route, since pedestrian access through the site east-west has been maintained towards the center of the site.
- *Alterations to the base of the existing I M Pei designed towers* The major change is the replacement of the curved glazed walls with flat glazing. Although not as interesting, the proposed change is not out of character with the existing buildings, and the Historic Preservation (HP) staff have advised that they have no concerns with this change.
- *Recreation Building* The façades of this new building have been completely altered. Again, although significantly simplified, the proposed design is not particularly out of keeping with the proposed use.
- *Central Courtyard* The applicant is proposing to move the common pool from the roof of the amenity building to the north-east corner of the central courtyard. Although not in keeping with the original design, placing it in this location will make it more visible and public, and may help to activate the courtyard. OP has no major concerns, provided that security required for the pool does not limit or inhibit pedestrian access through the courtyard. HP staff have also indicated no concern with this change.

Overall, the changes result in a simplified and to some extent less interesting version of the former design. However, had this design been part of the original application, it is unlikely that OP would have raised serious objections, and, as noted, the HP staff have indicated no objection to the changes.

Major Amenity Package Modifications

- *Tenant condominium discounts* The original proposal was for the development to have a mix of for-sale, and for-rent units. The approved Order included a proffer from the applicant to provide a discount to existing tenants for a new condominium unit in the amount of \$100 per square foot. At the time, this was estimated to have a value in excess of \$3.2 million, based on an assumed sales price of \$525 per square foot, and 50 tenants deciding to take advantage of this item. Due to current housing market conditions, the applicant has decided to go with an all rental regime, so this amenity item is no longer relevant, with the only question being the value of that item that needs to be replaced. Existing residents will still be able to take advantage of a rental discount program, but this is an item normally provided by developers, and required for some forms of tenants, and does not compensate for the loss of an amenity item which provided for home ownership opportunities.

According to the hearing transcript and the current modification submission, the developer intended that this amenity item be slightly narrower in scope than what was drafted into the Order, such that the actual value would vary with market conditions at the time, to a *maximum* value of \$100 per square foot, not an *absolute* value of \$100 per square foot.

“The second option is a condo option This will all be taking place in the south tower We have decided to discount the condos about \$100 off of market rate off of today's prices per square foot Sorry (Graham Brock, Fairfield Residential, February 28, 2008 Zoning Commission Public Hearing transcript p 81)

And in response to cross-examination on this issue from the ANC representative

what we did is we took a survey using a couple of different marketing companies on what a current new condo project would cost in southwest D C right on the water right on the Metro Came to about a number depending on the marketing company of about \$525 to \$570 a square foot We went with the lower number backed off of that and came up to about a \$425 a foot number So the \$100 off a foot is that and that's how we came to the condo discount number If you look at \$100 a foot averaging in size about 640 I don't have my exact notes in front of me And that's \$64 000 Each unit is discounted multiply that by the 50 or so residents and you come up to the \$3 2 million number (Graham Brock, Fairfield Residential, February 28, 2008 Zoning Commission Public Hearing transcript, pp 144-145)

Since the applicant is now estimating that sales prices in the area would be closer to \$450 per square foot, and that only 19 existing residents has expressed an interest in taking advantage of this item, they now estimate the value of this amenity item to be about \$308,000

However, the applicant's written submission is somewhat at odds with their hearing statement

Tenant Condominium Discounts

At the request of Marina View Towers tenants the Applicant has created a homeownership opportunity for existing tenants by offering them the chance to purchase a condominium at a discount of approximately \$100 per square foot Based on the favorable responses that the Applicant has received to date we estimate the total value of this program will be in excess of \$3,240,000” (June 26, 2007, p E-1)

As noted, the language in the approved Order is also clear

4 Prior to the sale of the first condominium unit the Applicant shall establish a condominium discount purchase program whereby existing Marina View Towers tenants may purchase a condominium at a discount of no less than \$100 per square foot (emphasis added) (Order 05-38 Decision Item #4 p 17)

OP considered this to be a proffer of a \$100 per square foot subsidy, not a variable \$100 per square foot maximum amount

In addition the applicant is proposing to provide tenant condominium discounts a homeownership opportunity for existing tenants by offering them a discount of \$100 per square foot and hosting sessions with residents regarding the general process of purchasing a condominium and various credit and financing issues OP is very supportive of this offer in concept as it would promote home-ownership (OP report dated February 5, 2008, p 9)

Finally, a reading of the transcripts from the deliberations of the Zoning Commission at both proposed and final action did not provide clarity as to the Commission's understanding or intent at the time with regards to this item There was no other discussion of the potential value of this item which, in fact, could disappear altogether if condo values in the area fall to below \$425 per square foot

OP discussed this issue with the applicant, and understands that the applicant has eliminated the for-sale units due to current market conditions. OP further understands that current market conditions may also enter into the discussion of what is an amenity item of equal value. OP does not necessarily disagree with the applicant's statement that the applicant "*is not receiving a great financial windfall by removing the condominium discount purchase program*" (June 5, 2008 submission, p 5). However, a determination by the Commission of an appropriate valuation for the original amenity item, which the Commission used to weight its decision for approval of the PUD, will be needed to determine the adequacy of replacement items.

The applicant has proffered, as the alternatives to the condo discount purchase program

- 1 *The Applicant will pay for and undertake the renovations for the Town Center West Park outlined in the WRT study up to a value of \$178,500. The Applicant will complete its renovations prior to the issuance of the Certificate of occupancy for the new South Tower.*

As part of the original approval, the applicant proffered to undertake a study to assess repairs and improvements needed for the Town Center West Park, located directly to the north of the subject site. The study was completed at a cost of about \$15,000, and the applicant is now proposing to pay for these improvements. The current submission includes a cost breakdown, which amounts to \$178,500 for both design and construction of the improvements. OP considers this a suitable amenity item as it will be of benefit to both residents of the new development, and residents of the surrounding neighborhood. However, the renovations would only be required to be completed prior to issuance of a C of O for the new south tower, which could be some time away, and costs could easily rise. Since the overall value of the replacement items (regardless of which calculation is used) is lower than that of the original application, OP would be more comfortable with this amenity item if it committed to doing all of the required work identified in the study. OP further notes that the land is to be conveyed to the District from the Federal government, as part of the first round Federal Land Transfer Agreement. However, it is not clear which agency will have jurisdiction, and whether that agency has agreed to these improvements.

- 2 *A financial contribution of \$50,000 to the Deputy Mayor for Planning and Economic Development's (DMPED) Shuttle-Bug proposal. In the event that the Shuttle-Bug program is not implemented by the ODMPED, the \$50,000 would be held in escrow for use by the ANC's Community Investment Fund.*

OP supports this initiative as it will facilitate safe and convenient movement through the neighborhood when these sites are under construction. However, OP has no knowledge of the ANC Community Investment Fund – normally, PUD contributions are required to be for a specified purpose. If the Shuttle-Bug program is not implemented, the applicant should be required to return to the Zoning Commission with a further minor modification to address more specifically where the \$50,000 would be allocated.

- **Financial contributions to community groups** – The Commission approved contributions of \$17,000 to Jefferson High School to renovate the school library, \$17,000 to Amidon Elementary School for library repairs, \$17,000 to Bowen Elementary School to be put toward technological advancements including computers and Smart Boards, and \$15,000 to the Southwest Library to be used to expand their resource collection. As Bowen School is now scheduled to be closed, the applicant has amended the package to contribute \$22,000 each to Jefferson Middle School, Amidon Elementary School, and Friends of the Southwest Library. OP has no concerns with this modification.

In summary, with respect to the modifications to the amenity items, OP supports the replacement items, with the clarifications noted above. If the Zoning Commission understood the ownership discount program to be as described by the applicant at the hearing and in the modification submission (i.e. a *maximum* of \$100 per sq ft based on current market value) as opposed to the language of the Order (i.e. \$100 per sq ft irrespective of current market rates), then the proposed replacement package is lower in value than what was approved, but not significantly so. However, if the Commission understood this item to be a \$100 per square foot discount, then the modified amenity package is significantly diminished in value from what was approved.

Under the terms of the approved Order, the applicant is also required to increase the amount of affordable housing from 11,541 sq ft to 16,000 sq ft - 2.6% of the total development or 13.5% of the density gained through the original PUD.

IV RECOMMENDATION

Although they may generally represent somewhat of a diminishment of the originally approved design, OP has no major concerns with the changes to the design of the buildings or landscape, and concurs with the applicant that they could be considered minor modifications not warranting a public hearing, provided that security required for the relocated pool does not limit or inhibit pedestrian access through the courtyard.

With regards to the amenity items, a determination by the Commission of an appropriate valuation for the original package, which the Commission used to weigh its decision for approval of the PUD, is needed to determine the adequacy of replacement items. If the Commission accepts the applicant's determination of the valuation of the original amenity package as outlined in this modification request, then the proposed modifications to the package, as outlined by the applicant, represent a relatively minor diminishment of the value of the amenity package. OP would have no concerns with the Commission accepting this package, subject to

- Removal of the dollar limit on the amount of the contribution towards the redesign of Town Center West Park. Rather, the commitment should be for the completion of the work items outlined in Appendix B to the applicant's June 9, 2008 submission.
- Clarification of where the \$50,000 Shuttle-Bug program contribution would go if that program is not implemented, or simply require that the applicant return to the Commission with a further minor modification to address more specifically where the \$50,000 would be allocated.

If, however, the Commission does not accept the applicant's determination of the valuation of the original amenity package, then the replacement items proffered in this modification at a value of about \$230,000, represent a very significant drop in value of the original amenity package. OP acknowledges that the \$3.2 million amount originally submitted by the applicant for the tenant condominium discount is just an estimate, and that it may be unreasonable to use this number to determine the value of the lost amenity item. An alternative estimate may be \$100 per square foot times the average unit size (648 sq ft) times the number of tenants who actually expressed interest in this item (19) resulting in a value of about \$1.23 million. In either case, the modification is not considered minor, and the applicant should work with OP and the neighborhood to specify additional, appropriate amenity replacement items prior to the Commission holding a public hearing to consider the modification.

JLS/jl