

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



November 3, 2011

Cynthia A. Giordano
Saul Eving LLP
1919 Pennsylvania Avenue, N.W. - Suite 550
Washington, D.C. 20006-3434

RECEIVED
D.C. OFFICE OF ZONING
2011 NOV -3 PM 4:27

Re: **Kelsey Gardens** - Request for Confirmation of Minor, Matter-of-Right Revisions to the Approved Planned Unit Development ("PUD") pursuant to Zoning Commission Order No. 08-14 dated March 9, 2009 as modified by Zoning Commission Order No. 08-14A dated November 8, 2010) (the "PUD Orders")

Dear Ms. Giordano:

In follow-up to our meeting held on October 6, 2011, you have requested my written confirmation that certain minor revisions to the above-referenced PUD plans approved by the Zoning Commission (a copy of the key plans which are Exhibit 59A in Zoning Case 08-14 are attached hereto) ("Approved PUD Plans") can be approved by this office pursuant to § 2409.6 of the Zoning Regulations and the flexibility provisions set forth in the PUD Orders. Also attached are plans depicting the proposed revisions to the PUD Plans ("Revision Plans"). The subject PUD is an apartment building with ground floor retail uses located on Lot 68 in Square 421 ("Project").¹

The specific revisions proposed by your client and my responses are as follows:

- **Increase in residential unit count from 278 to 281 units.** This revision is consistent with the flexibility provided in the PUD Order #0814, Condition 9(d) that allows for a 5% increase in the unit count, as well as Section 2409.6(b) which provides the Zoning Administrator with 2% flexibility with respect to residential unit count.
- **Relocation of fitness center to the 7th Street frontage of the building on the ground floor and inclusion of the 1,400 square foot fitness facility in the Project retail component for a total of 14,760 square feet for retail uses.** It is my understanding that

¹ The PUD also includes lot 68 which is being developed with townhouses under separate ownership and is not at issue here.

this revision will entail only minor changes in the design of the approved storefront elevations along 7th Street. It will also enable views of the activity inside the fitness center through large storefront window systems designed at the first floor retail facade. The fitness area at this location will serve to create street level activity which is a key objective of the retail uses at the ground floor. Therefore, it is my opinion that this revision can be approved without recourse to the Zoning Commission. I note that § 2409.6 of the Zoning Regulations provides authority to the Zoning Administrator to approve a change up to two percent in gross floor area “. . . to be used for commercial or accessory uses.”²

- **Relocation of service elevator adjacent to the elevator bank at the main lobby.** It is my understanding that this change is proposed to provide better traffic circulation for the revised loading dock and back of house areas. The building facade at the rear (alley elevation) has been stepped back to enable a smooth flow of traffic in and out of the dock areas and for improved safety of the vehicles. This is a minor change involving interior changes authorized by the standard flexibility language for interior components included in the PUD Orders.
- **Addition of a rooftop pool and associated storage, bathrooms and mechanical facilities.** It is my understanding that the revised penthouse enclosure for the elevator lobby, toilets, pump and storage room associated with the pool is within the range of the approved PUD Plans in terms of square footage and height. Further, the pool and associated structures are hidden behind the screen wall that architecturally embellishes the 7th Street façade. It is my further understanding that the elevator overrun and the accessory pool areas will be enclosed by walls of equal height that will harmonize with the main structure in architectural character, material and color.

Section 411.1 of the Zoning Regulations provides that penthouses for “storage, showers, and lavatories incidental and accessory to roof swimming pools . . .” are “roof structures” for the purposes of Section 411. As a result, it is my opinion that the proposed revisions, with the screening described above and shown in the Revision Plans, are consistent with the approved PUD and therefore permissible.

²

It was noted at our meeting that there is a discrepancy between the PUD Orders and the Approved PUD Plans in the amount of retail space to be included in the Project. The PUD Orders indicate 14,924 square feet of retail but the Approved PUD Plans show 14,760 square feet.

Cynthia A. Giordano
November 3, 2011
Page 3

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

cc: Sharon Schellin, Zoning Commission

Attachment

File: Det Let to Giordano re Kelsey Gardens 11-3-2011