

The Palisades Citizens Association
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April 6, 2009

Mr. Anthony Hood
Chairman
Zoning Commission
Suite 200/210S
441 4th Street NW
Washington, DC 20001

RE: Zoning Commission Case Number 08-21: Athena Group, LLC;
Request for Planned Unit Development and Zoning Map Amendment;
Square 1356, Lots 28, 929, 932 and 933

Dear Chairman Hood:

The Palisades Citizens Association (PCA) has been in some kind of dialogue with the applicant since December, 2007. We have dedicated so much time to ensure that the development proposed by the applicant can be in harmony with the rest of the community, and adds value to the fabric of the Palisades.

Having reviewed the applicant's submission to you dated March 30, I unfortunately must inform you that the PCA is opposed to Athena's application.

This is a very disappointing outcome. As you may recall, the PCA originally chose to support the application with strong conditions attached. These conditions have not been met, just as the application does not meet PUD requirements as a matter of law.

FAR and Density

Additional information provided by the applicant - information repeatedly requested by the parties over the months, and only received on March 30 - casts new light on this application.

The applicant has made several dubious assertions about the density of the project, as well as what could be accomplished as a matter-of-right project. Over the months, all community groups repeatedly requested data called for pursuant to DCMR 2403.11, which states:

"To assist the Commission in applying the evaluation standards of this section the applicant shall prepare and

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ZONING COMMISSION
District of Columbia

CASE NO.

EXHIBIT NO.

submit to the record of the case an annotated table that shows:

- (a) The extent to which the proposed development would comply with the standards and requirements that would apply to a matter-of-right development under the zone district classification of the site at the time the application is filed;
- (b) The specific relief that the applicant requests from the matter-of-right standards and requirements; and
- (c) If the applicant requests a map amendment, the extent of compliance with, and the requested relief from, the matter-of-right standards and requirements of development under conventional zoning."

On March 30, the information requested - finally broken down into theoretical lots - was submitted. This new information indicates that, using a correct analysis, the applicant has not met Floor to Area Ratio (FAR) requirements. The Applicant claims a FAR of .96.

The statutory maximum FAR for the project, assuming even rezoning of the R-1-B portion to R-5-A, would be 1.0 under PUD standards. The PUD standards expressly prohibit anything more than a 5 percent increase in allowable FAR, and then only on a finding "that the increase is essential to the successful functioning of the project."

As detailed in the submission of the Canal View Homeowners Association, the correct FAR for the project, based on this new information, is 1.23. **A FAR of 1.23 cannot be approved as a matter of law, and for this reason alone the Zoning Commission should reject the application.**

Why does this discrepancy exist? The applicant has attempted to count streets and sidewalks by including them in the land from which a stated percentage of gross floor areas can be extracted for development. Doing so contravenes zoning regulations, and produces the dense development that has raised so many concerns from the community.

The applicant, for any number of reasons, chose to obscure the true FAR of this project by only providing "whole project" analysis, and delaying until the last minute provision of numbers based on the multiple lots they are proposing.

In so doing, the applicant attempted to throw a smokescreen over the whole "density" discussion. Fortunately, we are able to

submit a correct analysis, and we refer you to the Canal View Homeowners submission for more detailed analysis and justification.

The Modified Project

These new data also accompanied a minor reduction in the number of dwelling units, to 36 units. **This has no real impact on the height, density, and wetlands protection issues that are so apparent with the project.** The applicant freely states that the 36 unit total is only the best the applicant can do for financial reasons, owing to the underlying undercapitalization of the project.

The project as proposed clearly endangers the present character and future development of the neighborhood, and the PCA's reasoning is detailed in testimony provided to the Commission on March 16. Again, we held great hopes that some accommodation could be made, but the applicant has unfortunately chosen not to respond in any significant way.

Which Neighborhood Are We Talking About?

In its March 30 submission, the applicant concedes that in fact, the property is not in the Near Northwest Area Element of the Comprehensive Plan. This speaks volumes about the applicant's claims to present a project in harmony with the wider Palisades community.

We take exception to the representations made by the application about the Office of Planning's position on the project, and urge the Zoning Commission to speak to the Office of Planning directly, rather than rely on the assertions made by the applicant.

This fundamental error is perhaps why this project is perhaps best suited for Shaw or Dupont Circle, and not the Palisades, and perhaps why community concerns were taken so lightly. Our testimony of March 16 further details the **negative impacts to the community when a project is literally designed with another part of the District in mind.**

No Significant Change Since December 2007

The PCA, as noted, has attempted to work with the applicant over the past 16 months. The response from the developer has been

minimal. **We appreciate their willingness to talk and attend meetings, but unfortunately actions are what matter, not words.**

Over the last 16 months, the applicant has obscured the facts of the project, misrepresented the positions of the city and neighborhood organization, and played fast and loose with its own calculations.

The March 30 revelations about details of the project and the true FAR ratio - the density - of the project is only the latest illustration of this disturbing tendency. As noted, **a FAR of 1.23 cannot be approved as a matter of law, and for this reason alone the Zoning Commission should reject the application.**

But what has mattered most to the community is fulfilling the promise of a Planned Unit Development: any PUD should *"offer a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience,"* as noted in DCMR 2400.2. A successful applicant must ensure *"superior features that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under matter-of-right provisions"* (DCMR 2403.6).

These features and benefits simply are minimal. This application does not meet the standards called for in a PUD.

The project is a net loss for the neighborhood and the general public, and endangers the present character and future development of our neighborhood. The vast flexibilities requested simply are not justified in their application.

To come to this point after more than 16 months of talk is disappointing. The neighborhood - from Foxhall Road to the District Line - is united in its disappointment. And regretfully, we urge the Zoning Commission to deny this application.

Sincerely,



William Spence Spencer
President

Cc: Phil Feola, Pillsbury Winthrop Shaw Pittman LLC
Gary Cohen, Willco Residential
Mary Cheh, Councilmember, Ward Three
Jennifer Steingasser, Office of Planning
Maxine Brown-Roberts, Office of Planning
Cornish Hitchcock, Esq.
ANC 3D Commissioners
Gene Tucker, Canal View Homeowners Association
Robert Avery, Foxhall Community Citizens Association