

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



November 12, 2009

Caroline Petti, President
Brookland Neighborhood Civic Association
1502 Otis Street, N.E.
Washington, D.C. 20017

Re: Zoning Commission Case No. 08-24 – Camden Development (Consolidated PUD & Related Map Amendment)

Dear Ms. Petti:

The Office of Zoning is in receipt of your letter dated November 3, 2009 regarding the above-referenced case.

The Zoning Regulations are strict regarding the timeliness of submissions into case records. The record on this case was closed on October 5, 2009, with only specific additional submissions requested by the Commission due on October 26, 2009. Your letter was received after the record closed. On November 9th, the Commission decided not to reopen the file to receive your letter. Accordingly, we are returning your letter to you.

If you have any questions, please do not hesitate to call me at (202) 727-0340.

Sincerely,

A handwritten signature in black ink that reads "S.S. Schellin".

Sharon S. Schellin
Secretary to the Zoning Commission

Enclosure

ZONING COMMISSION
District of Columbia

CASE NO. 08-24
EXHIBIT NO. 63

RECEIVED
D.C. OFFICE OF ZONING**Brookland Neighborhood Civic Association**

1502 Ous Street, N.E. Washington, D.C. 20017

November 3, 2009

Zoning Commission for the District of Columbia
Suite 200/210-S
441 4th Street, N.W.
Washington, D.C. 20010

Return

Re: Case Nos. 08-24 and 08-24A/04-25 (Abdo Development, LLC and the Trustees of the Catholic University of America)

Dear Commissioners:

I am writing on behalf of the Brookland Neighborhood Civic Association to request that the Zoning Commission re-open the record in Case Nos. 08-24 and 08-24A/04-25 to accept this filing.

On October 5, 2009, the Zoning Commission held a public hearing regarding an application from Abdo Development, LLC and the Trustees of the Catholic University of America (i.e., the "Applicant") seeking review and approval of a consolidated planned unit development ("PUD"), a proposed amendment to the Zoning Map of the District of Columbia, and a proposed amendment to The Catholic University Campus Plan (Case Nos. 08-24 and 08-24A/04-25). At that hearing, I testified that the Applicant had made no effort to notify me or the Brookland Neighborhood Civic Association or to solicit our views or engage our participation in the development of the amenities package accompanying the PUD application in this Case, though BNCA's western border directly abuts the eastern border of the proposed development. I suggested that, had the Applicant made such an effort, the development of a more appropriate suite of amenities that represented the interests of all of the immediately affected neighborhoods would have been more likely. I requested that the Commission defer approval of Abdo's application to allow additional time for the development of a more appropriate suite of amenities. Following my testimony, the Commission directed the Applicant to work with the Brookland Neighborhood Civic Association on potential changes to the amenities package and, in particular, to "re-look" at one of the elements of the package--the \$25,000 Brookland-Edgewood Retail Strategy Study.

Following the hearing on October 5, 2009, BNCA presented the Applicant with a proffer of public amenities for consideration. The Applicant's response to this initial proffer, and throughout the process of discussions on it that ensued, was to impose the following conditions on any changes to the existing amenities package: 1) any new "off-

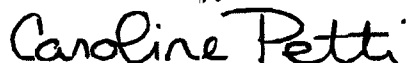
D.C. OFFICE OF ZONING
District of Columbia08-24
63 (A2)

site" amenities would have to involve a re-allocation of dollars already existing in the amenities package; and 2) any re-allocation of dollars would have to be concurred in by Advisory Neighborhood Commission 5C. (Attachment A) These conditions have no basis in the District of Columbia Municipal Regulations for Planned Unit Development or the requirements therein regarding amenities. Imposing these conditions served to effectively circumvent the Zoning Commission's directive of October 5, 2009 and to effectively doom to failure any possibility of agreement on a revised package of amenities.

In light of the Applicant's failure to respond in good faith to the Zoning Commission's direction of October 5, 2009, the Brookland Neighborhood Civic Association respectfully requests that the Commission take the following actions:

- 1) Re-iterate the need for the Applicant to engage with the Brookland Neighborhood Civic Association in the development of an amenities package that better represents the interests of the neighborhoods surrounding and directly affected by the proposed development; and
- 2) Defer approval of the PUD application in Case Nos. 08-24 and 08-24A/04-25 until the Applicant demonstrates a good faith effort to respond to the Zoning Commission's direction of October 5, 2009 regarding the amenities package.

Sincerely,



Caroline Petti, President

ATTACHMENT A

From: Toby Millman <Toby@Abdo.com>

To: Caroline Petti <carolinepetti@yahoo.com>

Cc: Jim Abdo <Jim@Abdo.com>; parker@cua.edu; cua-president@cua.edu; swansonzeno@cua.edu; HThomas@dccouncil.us; "Leonard-Chambers, Victoria (COUNCIL)" <VLeonardChambers@DCCOUNCIL.US>

Sent: Sun, October 25, 2009 10:18:53 PM

Subject: RE: Case No. 08-24 and 08-24A/04-25

Caroline -

I understand and appreciate your frustration. However, as you know, we cannot in good faith make changes to the amenities package without the approval of ANC-5C, which is the only entity that holds party status in this PUD case and has already voted unanimously to support the PUD and the current amenities package. As promised, I have reached out to ANC-5C on your behalf, but have not yet been able to obtain the concurrence necessary to re-allocate amenity dollars to BNCA's requested initiatives. That said, I hold out hope that, with your assistance, such an agreement is still possible by tomorrow, when we are required to file our post-hearing statement with the Zoning Commission.

You have acknowledged that the timing of BNCA's request posed a difficult challenge for all of us. Your first call to Abdo came just one business day prior to our October 5th PUD hearing and after the culmination of 18 months of intensive community outreach, including over 30 neighborhood meetings. The current list of amenities was derived entirely from community feedback and input over this 18-month period. The full amenities package, including both on- and off-site amenities, totals nearly \$4,500,000, including \$275,000 in contributions to neighborhood initiatives (which the Office of Planning has stated is appropriate for this project). As you might expect, it is a difficult challenge to redirect the inertia and alter the commitments that came out of such a lengthy and intensive community process.

As a result of our continuous phone and email conversations over the last three weeks and our meeting last Thursday evening, I feel that we have developed an excellent working relationship that will serve us well in the months and years ahead. In the meantime, however, I hope we can find a way to satisfy all the parties involved in the amenities matter. I will call you Monday morning to discuss further.

Regards,
Toby

Toby Millman
Vice President of Project Development
Abdo Development
1404 14th Street, NW, Second Floor
Washington, DC 20005
202-265-9393
202-438-4428 (cell)
202-265-7072 (fax)
toby@abdo.com
www.abdo.com

From: Caroline Petti [mailto:carolinepetti@yahoo.com]

Sent: Sunday, October 25, 2009 1:53 PM

To: Toby Millman

~~carolinepetti@yahoo.com, carolpetti@dcad.edu, swanson2@dcad.edu,~~

HThomas@dccouncil.us

Subject: Fw: Case No. 08-24 and 08-24A/04-25

Toby,

In a previous e-mail communication to you on October 14, 2009, I indicated that, if your preferred policy is to require the concurrence of outside parties on changes to the amenities package, then as the Applicant, it is your responsibility--not mine--to get the concurrences you think you need. In a reply later that day, you responded: "I am happy to seek their concurrence..." (See e-mails from October 14th attached below.)

My view continues to be that, as the Applicant, it is your responsibility--not mine--to get whatever concurrences you think you need. If I do not hear from you between now and Monday morning, I will have no choice but to assume you have rejected the Brookland Neighborhood Civic Association's proffer of October 23, 2009 (attached).

Thank you for your consideration.

Sincerely,

Caroline Petti

President

Brookland Neighborhood Civic Association

(202)529-0953

----- Forwarded Message -----

From: Toby Millman <Toby@Abdo.com>

To: carolinepetti@yahoo.com

Sent: Sun, October 25, 2009 9:59:49 AM

Subject: Re: Per Our Conversation

Caroline- thanks for your email and follow-up voicemail. I have not heard from anyone confirming agreement on the re-allocation of amenity dollars. Until that happens, we will assume that the current amenity package stands. We plan on going to press with the post-hearing statement on Monday morning and submitting by 3pm. Let me know if we are able to get any confirmation between now and Monday morning. Thank you. Toby

Toby Millman

Vice President

Abdo Development

202-265-9393

From: Caroline Petti
To: Toby Millman
Sent: Fri Oct 23 16:21:28 2009
Subject: Per Our Conversation
~~Subject: RE: Case No. 08-24 and 08-24A/04-25~~

Draft letter from BNCA to Zoning Commission attached.

Sincerely,

Caroline Petti, President
Brookland Neighborhood Civic Association

----- Forwarded Message -----

From: Toby Millman <Toby@Abdo.com>
To: Caroline Petti <carolinepetti@yahoo.com>
Sent: Wed, October 14, 2009 3:50:06 PM
Subject: RE: Case No. 08-24 and 08-24A/04-25

Ms. Petti-

We can definitely have a call with just the two of us tomorrow. I was only suggesting that it might be more productive if we had representatives from Edgewood and ANC5C on the line so that we can talk through the issues together. I am happy to seek their concurrence, but I think you would be in the best position to express your request directly to them. From our perspective and that of DCOP, the amenities package is sufficient in size, so any re-allocation of amenity dollars would be at the discretion of all the affected neighborhood organizations. I look forward to talking through all of this with you tomorrow.

Toby

From: Caroline Petti [mailto:carolinepetti@yahoo.com]
Sent: Wednesday, October 14, 2009 2:55 PM
To: Toby Millman
Subject: Re: Case No. 08-24 and 08-24A/04-25

Mr. Millman,

I mean no offense when I say I don't accept your premise. In any case, if this is your preferred policy, then as the Applicant, it is your responsibility (not mine) to get the concurrences you think you need.

I continue to believe a conversation between the two of us tomorrow as planned would be productive. Please let me know if this is not going to be possible.

Caroline Petti

From: Toby Millman <Toby@Abdo.com>
To: Caroline Petti <carolinepetti@yahoo.com>
Sent: Wed, October 14, 2009 1:37:42 PM
Subject: RE: Case No. 08-24 and 08-24A/04-25

Ms. Petti-

We believe that the total amenities currently proffered (both on- and off-site) are appropriate for this project and the DC Office of Planning concurred in their PUD staff report, stating "the proposed benefits and amenities are commensurate with the amount of relief and flexibility proposed by the application." Therefore, any new off-site amenities added to the package would have to involve a re-allocation of currently proffered dollars. We are open to discussing such a re-allocation, however, this discussion must include ANC5C and the Edgewood Civic Association. If you would like, in order to expedite the discussion, I can try to schedule representatives from those organizations on our call for tomorrow. Please let me know if you would like me to do that.

Toby

From: Caroline Petti [mailto:carolinepetti@yahoo.com]
Sent: Wednesday, October 14, 2009 1:09 PM
To: Toby Millman
Subject: Re: Case No. 08-24 and 08-24A/04-25

Mr. Millman,

Thank you for your response.

I am not proposing any re-allocation of amenity dollars agreed to with ANC5C. I am proposing to supplement that agreement with additional benefits of importance to the Brookland Neighborhood Civic Association whose western border directly abuts the Subject Property and whose interests will be directly affected.

I look forward to our conversation tomorrow.

Sincerely,

Caroline Petti

From: Toby Millman <Toby@Abdo.com>
To: Caroline Petti <carolinepetti@yahoo.com>
Sent: Wed, October 14, 2009 11:34:06 AM
Subject: RE: Case No. 08-24 and 08-24A/04-25

Ms. Petti-

We are confirmed for 10am on Thursday. Thank you for sending me your talking points. As discussed, please be aware that any re-allocation of amenity dollars will require the concurrence and approval of ANC5C (which covers the entire property and is therefore given "great weight" in the ~~the public process and the approval of the re-allocation of amenity dollars for the property.~~ encourage you to reach out to those organizations as their concurrence will be a pre-requisite to any re-allocations.

Regards,
Toby

From: Caroline Petti [mailto:carolinepetti@yahoo.com]
Sent: Wednesday, October 14, 2009 10:13 AM
To: Toby Millman
Subject: Case No. 08-24 and 08-24A/04-25

Dear Mr. Millman,

I look forward to our conversation at 10:00am on Thursday, October 15, 2009.

Attached is a copy of the public benefits that I would like to discuss.

Sincerely,

Caroline Petti, President
Brookland Neighborhood Civic Association
(202)529-0953

ZONING COMMISSION CASE NO. 08-24 and 08-24A/04-25

1. **Building Heights:** To provide a better transition to the lower-scale heights of nearby residential homes, the Applicant shall reduce the height of proposed development adjacent to any such residential homes.
2. The Applicant shall make the following financial contributions within the specified time period:
 - **Business Improvement District:** The applicant shall establish an escrow fund and contribute \$25,000 to such fund to be used to establish a Business Improvement District for the retail in the Subject Property, on 12th Street, NE, and at 4th Street and Rhode Island Avenue, NE. Such contribution shall be made prior to the receipt of above-grade building permits for the first building to be constructed on the Subject Property.

The applicant shall enter into a Memorandum of Agreement with the District of Columbia Department of Small and Local Business Development's Office of Commercial Revitalization (reSTORE DC) to establish a BID to address BID-wide issues including cleanliness, trash and litter pick-up, graffiti eradication, maintenance, safety, and other collective business issues. Such MOA shall provide that the BID will be established prior to the issuance of a certificate of retail occupancy for the Subject Property. Such MOA shall provide that the withdrawal of the escrow funds may be authorized only by the entity that administers the BID.

- **Grocery Store to Serve the Community:** The Applicant shall encourage the establishment of a grocery store (i.e., a "supermarket such as Harris Teeter, Safeway, or Giant) as part of the retail in the Subject Property will set aside appropriate square footage and parking space for this purpose.
- **Undergrounding Utility Lines:** The Applicant shall place all utility lines (e.g., power lines, cable lines, communications lines) underground so they will not interfere with street tree growth or the visual aesthetics and appeal of the streetscape. The undergrounding of utility lines on the Subject Property shall be completed prior to the receipt of above-grade building permits for the first building to be constructed on the Subject Property.
- **Improvements to Children's Playground at Turkey Thicket Recreation Center:** The Applicant shall make a contribution of \$10,000 to the Turkey Thicket Recreation Center. The contribution shall specify that the funds shall be used for clean-up, improvements, and maintenance to the playground located on the Recreation Center grounds directly north of the Turkey Thicket Recreation Center/Swimming Pool Building. The contribution shall be made prior to the receipt of above-grade building permits for the first building to be constructed on the Subject Property.

- **Shuttle Bus Service for Neighborhood Seniors:** The Applicant shall contribute \$25,000 to the District of Columbia Office on Aging to expand existing transportation services for seniors in the Brookland, Edgewood, and Michigan Park neighborhoods to the Subject Property, 12th Street, NE, 4th Street and Rhode Island Avenue, NE, the Brookland/CUA Metro Station, and the Turkey Thicket Recreation Center. The contribution shall be made prior to the receipt of above-grade building permits for the first building to be constructed on the Subject Property.

--Submitted by Caroline Petti on behalf of the Brookland Neighborhood Civic Association, October 14, 2009

RECEIVED
D.C. OFFICE OF ZONING

Brookland Neighborhood Civic Association

~~1502 Otis Street, N.E. Washington, D.C. 20017~~

FAX

TO: Zoning Commission for the District of Columbia
FROM: Caroline Petti, President, Brookland Neighborhood
Civic Association

RE: Case Nos. 08-24 and 08-24A/04-25 (Abdo Development,
LLC and the Trustees of the Catholic University of America)

Pages including cover sheet: 10

Phone number: (202)529-0953