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March 29, 2010

By Hand Delivery

Anthony Hood
Chairperson
District of Columbia Zoning Commission
441 4th Street NW, Suite 210S
Washington, DC 20001

Re: **Consolidated PUD and Zoning Map Amendment Application
Case No. 09-03 - Materials Requested at Zoning Commission
Public Hearing on February 17, 2010**

Dear Chairperson Hood and Members of the Zoning Commission:

Skyland Holdings, LLC (the “**Applicant**”) hereby responds to the requests for information made by the Zoning Commission during the February 17, 2010 public hearing in the above-mentioned case.

Construction Techniques, Soil Stabilization and Soil Erosion Control Measures

There are several construction techniques and subsurface structural methodologies that could be used at the Skyland site. The Applicant has engaged the engineering firm of Hillis-Carnes Engineering Associates, Inc. (“Hillis Carnes”) to review the proposed construction techniques that will be undertaken on the Skyland property in order to minimize construction related impacts on the Ft. Baker Drive properties. Hillis Carnes has determined that the existing site conditions warrant implementing soil improvement measures to develop the PUD project. Hillis Carnes recommends dynamic compaction or stabilizing the existing filled soil as the most appropriate construction technique. However, alternative techniques also being considered are: soil surcharging, compaction grouting, mat foundations and drilled micro piles. One construction method that will not work is pile driving both because the concrete debris in the fill will, in some locations, prevent pile driving and the pile driving will likely result, at its deepest points, in undue vibrations. Based on input from structural, geotechnical and construction engineers and experts, the Applicant believes that there will be no adverse impact on the Zoning Commission and

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specifically the Ft. Baker Drive residences. Regardless of the construction technique that is followed, the Applicant will provide on-site seismic monitoring of the Ft. Baker Drive properties. This monitoring will allow the Applicant to determine whether any construction vibrations are adversely impacting the Ft. Baker Drive properties.

William M. Carnes, P.E., Co-founder and President of Hillis Carnes, will present testimony at the Zoning Commission public hearing on April 21, 2010. A copy of Mr. Carnes resume is attached as Exhibit A. The Applicant requests that the Zoning Commission admit Mr. Carnes as an expert in the field of geotechnical and structural engineering. Mr. Carnes will present testimony that any of the construction techniques noted above could be utilized on the Skyland Property in a manner that will effectively mitigate construction impacts from the development of the PUD project on the Ft. Baker Drive properties.

The existing topography of the site allows a portion of the stormwater runoff to flow towards Ft. Baker Drive. The proposed development will reduce the flow towards Ft. Baker Drive by collecting the water through an on-site drainage system. Stormwater quantity and quality control will be provided for all concentrated points of discharge leaving the Skyland property after completion of the construction of the PUD project. Stormwater quantity will be addressed through stormwater management facilities designed with large pipes to store water which will be released at reduced rates. The proposed stormwater management plan will address quality issues through installation of filtering systems to remove pollutants from the water. As a result, the proposed project will actually reduce the amount stormwater flow that goes toward Ft. Baker Drive.

In addition to collecting stormwater through an on-site drainage system, another effective way to prevent erosion to a slope is to keep existing vegetation. Therefore, a Tree Preservation Area has been created to preserve the majority of the existing vegetation on the slope. In addition, the proposed project includes a newly planted vegetation zone between the Tree Preservation Area and the proposed buildings.

As indicated above, the proposed project will reduce the amount of stormwater leaving the site and implement means to prevent further erosion to the slope. The Tree Preservation Area will maintain existing vegetation preventing further erosion. A newly planted vegetation zone will be constructed between the Tree Preservation Area and the buildings to further stabilize the slope. Lastly, an on-site stormwater system will collect rainwater in the developed portion of the project meeting quantity and quality requirements set forth by the District of Columbia Department of the Environment.

During construction, soil erosion control measures will be designed in accordance with all applicable DC regulations and standards. The methods used to control and minimize erosion from the Skyland property during construction include sediment basins, silt fences and dikes/berms controlling the direction of runoff flows.

Construction Mitigation Agreement and Construction Management Plan

As noted during the cross-examination of the Ft. Baker Drive Neighbors during the February 17, 2010 public hearing, the Applicant prepared and presented a draft Construction Mitigation Agreement to the Ft. Baker Drive Neighbors in December, 2009. The Applicant has never received a written response from the Ft. Baker Drive Neighbors regarding this document. This Construction Mitigation Agreement was intended to address specific issues related to the protection of the improvements on the Ft. Baker Drive properties, rather than the more general issues addressed in the Development and Construction Management Plan submitted to the Zoning Commission on November 20, 2009 (part of Exhibit 25). The Applicant remains committed to negotiating a Construction Mitigation Agreement with the Ft. Baker Drive Neighbors and is ready to resume such negotiations as soon as the Ft. Baker Drive Neighbors are ready to do so.

Matter-of-Right Analysis for the Existing R-5-B Zoned Portion of the Property

The Applicant has prepared an analysis of the impact that a multi-family residential project, which fully satisfies all matter-of-right requirements in the R-5-B Zone District (50 foot building height, 60% lot occupancy, rear yard of 28.66 feet, 12.5 foot side yards), would have on the adjacent Ft. Baker Drive properties. This analysis is attached as Exhibit B.

Residential buildings that satisfy the matter-of-right development standards in the current R-5-B zoned portion of the Skyland Property could be 30.5 feet taller than the structure proposed in Block 1 and 22.5 feet taller than the structure proposed for Block 4 of the PUD project. In addition, these residential buildings could be 45.25 feet closer to the Ft. Baker Drive properties than the building proposed on Block 1 and 29 feet closer to the Ft. Baker Drive properties than the building proposed on Block 4 of the PUD project. The materials provided in Exhibit B clearly show that a multi-family residential project, which satisfies all matter-of-right development standards, could be developed on the R-5-B zoned portion of the Skyland property which would impact the Ft. Baker Drive properties in a much more significant manner than the proposed PUD project.

Visual Impact of the Project on Adjacent Property Owners

- Balloon Test – On March 16, 2010, the Applicant conducted a balloon test in order to depict the visual impact of the proposed PUD project. The Ft. Baker Drive Neighbors were made aware of the date and time of this test and provided the opportunity to take pictures. A photomontage of the results of the balloon test is provided in Exhibit C.

In advance of the balloon test on March 16, 2010, the critical building corners and heights of the buildings on Blocks 1 and 4 adjacent to the Ft. Baker Drive properties were established based on topographic information provided by the Applicant's civil engineer and from roof elevations noted in the PUD materials filed in the record of this case. On March 15, 2010, survey crews from the Applicant's civil engineer accessed the site and staked out the appropriate locations for the balloons.

- Buffer Area Adjacent to Block 4 – Additional information on the buffer area that will be created between Block 4 of the PUD project and the Ft. Baker Drive properties is included in Exhibit D. Also included in Exhibit D are the location and character of the fence that will help provide a security buffer between Skyland and the properties along Ft. Baker Drive.
- Shadow Study of the PUD Project and a Matter-of-Right R-5-B Project – Attached as Exhibit E are shadow studies of the PUD project and a R-5-B matter-of-right project. As shown in these shadow studies, a R-5-B matter-of-right project will cast significantly greater shadows on the Ft. Baker Drive properties.
- Proposed Exterior Lighting – The Applicant has prepared information which addresses the potential impacts that lighting of the various buildings, especially the roof level parking on Block 1, will have on adjacent properties. (See Exhibit F.)

Dialogue with ANC 7B and Presentation at ANC 7B Public Meeting

On March 18, 2010, the Applicant and its design team made a presentation at ANC 7B's regularly scheduled and duly noticed monthly public meeting. At that meeting, the Applicant presented the plans and materials that were presented to the Zoning Commission on December 10, 2009 and February 4, 2010.

In response to the Commission's request, the Applicant has engaged in additional dialogue with ANC 7B Commissioners regarding the twenty-one conditions noted in ANC 7B's December 3, 2009 submission to the Zoning Commission. At this point, the Applicant and ANC 7B have been able to come to agreement on a number of these conditions. The Applicant will continue to work with the ANC 7B Commissioners on these remaining conditions.

Dialogue with the District Department of Transportation ("DDOT")

The Applicant has continued to meet with DDOT representatives in order to address DDOT's concerns regarding pedestrian safety. As a result of those meetings, the Applicant has agreed to remove the vehicular ingress/egress point from Naylor Road into the parking garage in Block 2. Attached as Exhibit G is an alternative site plan for Block 2. The Applicant believes that the alternative plan addresses all of DDOT's concerns regarding pedestrian safety noted in DDOT's previous reports and testimony provided in this case.

Timing of Proposed Mixed-Use Development on the Skyland Property

The Commission asked for information regarding when residential use was first proposed for the development of the Skyland property. A mixed-use development (with a significant residential component) was presented to Hillcrest residents and other area community members by representatives of the National Capital Revitalization Corporation ("NCRC") on August 19, 2006 in a four hour meeting. Thereafter, on November 4, 2006, NCRC returned to the Hillcrest and neighboring communities and presented three conceptual sketches for the site, each proposing more than 750 residential units. On February 10, 2007, NCRC hosted a Skyland community planning session in which it presented another concept design that included approximately 440 residential units.

The current Comprehensive Plan was introduced to the DC City Council on July 14, 2006, was approved by the City Council on December 19, 2006 and became effective on March 8, 2007. It is clear that during the time the Comprehensive Plan was being reviewed and approved by the DC City Council, NCRC had made public presentations to the community that residential development was proposed for the Skyland property.

Public Benefits and Project Amenities

The Zoning Regulations require that the Zoning Commission "evaluate the specific public benefits and project amenities of the proposed development, which

features may in some instances overlap” (11 DCMR § 2403.5). The Zoning Regulations define public benefits and project amenities as follows:

Public benefits are superior features of a proposed PUD 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 of this title. (11 DCMR § 2403.6)

A project amenity is one type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for the occupants and immediate neighbors. (11 DCMR § 2403.7)

The Zoning Regulations provide the following guidance to the Zoning Commission in addressing public benefits and project amenities in the context of a PUD application:

In deciding a PUD application, the Commission shall 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)

At the request of the Zoning Commission, the Applicant has reviewed and revised its calculation of the public benefits and project amenities that will result with the approval of this PUD project. A chart identifying the public benefits and project amenities proposed in this PUD project is attached as Exhibit H. The attached chart provides an analysis of the cost of the public benefits and project amenities that are above and beyond what would be required for the development of the Skyland property as a matter-of-right.

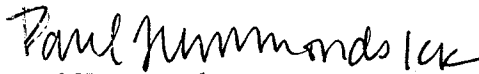
The total value of the public benefits and project amenities proposed in this PUD project is \$5,249,325. This is a significant number given the relatively small degree of development incentives that are requested. The Applicant is not seeking additional FAR or building height through the PUD process. The existing C-3-A and R-5-B Zone Districts on the Skyland Property would allow for a matter-of-right FAR of 1,607,796 square feet – 2,351,646 square feet. The proposed PUD is only requesting 1,249,000 square feet of FAR (note that 342,548 square feet of that total is for above grade parking structures). In addition, as shown in the attached Exhibit B, the proposed PUD project will have less of a visual impact on the Ft. Baker Drive Neighbors than a residential apartment building project that fully satisfies the matter-of-right development standards of the R-5-B Zone District. The public benefits and

project amenities proposed in this PUD project fully satisfy the balancing standard outlined in 11 DCMR § 2403.8.

Conclusion

The Applicant believes that this submission addresses the Zoning Commission's request for additional information. The Applicant looks forward to presenting rebuttal testimony to the Zoning Commission at the April 21, 2010 public hearing.

Sincerely,


Paul Tummonds

Enclosures

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Certificate of Service

I certify that on March 29, 2010, a copy of the foregoing document and enclosures was hand-delivered, sent via Federal Express, or mailed to the addressees listed below.


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