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FACSIMILE TRANSMITTAL SHEET

TO: Jerrily R. Kress
Linda Pelzer

FAX NO.: (202) 727-6072

FROM: Cynthia A. Giordano

DATE: May 5, 2000

RE: BZA Application

This transmittal consists of 5 page(s), including cover sheet. If you do not receive all pages indicated, or have any other problems with reception, please call Sharon Arnold at 301.650.7041.

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Comments/Instructions:

Please see the attached.

00 MAY -5 P2:53
OFFICE OF ZONING
DISTRICT OF COLUMBIA

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BZA
Case No. 16596
Exhibit No. 9

Board of Zoning Adjustment
District of Columbia
CASE NO.16596
EXHIBIT NO.9

LINOWES AND BLOCHER LLP

MEMORANDUM

TO: Jerrily R. Kress
Linda Pelzer

FROM: Cynthia A. Giordano

DATE: May 5, 2000

RE: BZA Application

DISTRICT OF COLUMBIA
OFFICE OF ZONING
'00 MAY -5 P2:53

In follow-up to our attempt to file a BZA Application for Square 486, attached please find a meeting outline of issues discussed with Michael Johnson and Ellen McCarthy on April 7th in regards to this project. As you can see, we reviewed the matter-of-right interpretations with them for this project, as well as necessary BZA relief required. Please see Section VI of the attached outline which specifies BZA relief required. I am sending this to you in hopes that it will clarify that we have already reviewed this matter with the Zoning Administrator so that we can avoid additional delay in obtaining a formal zoning memorandum.

Attachment

AVALON BAY COMMUNITIES, INC.

770 5th Street, N. W.

MEETING WITH D.C. ZONING AND PERMITTING OFFICIALS
APRIL 7, 2000

I. Subject Property

A. 770 5th Street, N. W., (Square 486, Lots 818, 819, 821, 823, and 827)

B. Lot area: 23,845 square feet (upon recordation of plat closing east-west alley)

C. Property is a portion of a record lot which is improved with the Red Roof Inn:

(1) Original development plan for record lot under previous HR/SP-2 zoning was a mixed-use development. Development rights were allocated between planned hotel and office components.

II. Site Zoning - DD/C-2-C (Housing Priority Area B and Chinatown Subareas)

A. Maximum height - 110' with frontage on 90' street

B. Maximum FAR - 8.0 or 8.5 if additional .5 FAR is devoted to residential

C. Preferred Use Requirements:

(1) Minimum residential FAR - 4.5

(2) Ground floor retail/arts use - 1.0 FAR for properties fronting on H & 7th and 6th Streets in Chinatown, 0.5 FAR for other Chinatown streets.

D. Combined Lot Development Permitted (within Housing Priority Area B):

(1) The maximum permitted floor area for all uses and the minimum required floor area for preferred uses shall each be calculated as if the combined lots were one lot and the total project shall conform with the maximum and minimum floor area requirements § 1708.1(h).

(2) No transfer of required FAR for preferred uses shall be effective unless an instrument effecting the transfer shall be filed with DCRA. § 1708.1 (j)

(3) Combined Lot provisions are attached hereto as Attachment A.

III. Proposed Project

A. High-rise, apartment building (approximately 200 units)

B. Project will be built as an addition to the Red Roof Inn:

(1) building height - 110 feet (Red Roof Inn fronts on "H" Street which is 90 feet wide).

C. An FAR of approximately 9.5 can be realized on the site, within height limitations.

D. Plans have been submitted for Fine Arts review; initial meeting with Fine Arts staff was very positive.

E. Status of efforts to assemble a combined lot development.

IV. Confirm Applicability of Previous Zoning Interpretations (Attachment B - January 3,.1999 letter from Jacques DePuy to Michael Johnson, countersigned by Michael Johnson)

A. 0.5 FAR for ground floor preferred retail/arts applies

B. Measuring point for height of project is taken from "H" Street, N.W.

C. 8.5 FAR is permitted for an all residential project on the subject property.

D. The "lot" for the purposes of combining lot development consists only of subject property exclusive of Red Roof Inn site.

V. Outstanding Issues Requiring Zoning Interpretation

A. Implementation of Combined Lot Development Alternative

(1) legal instrument requirement may be flexible as to identification of commercial site

(2) residential FAR developed on subject site can be utilized to satisfy preferred use requirements for another site which is identified and developed later.

B. Methodology for Calculating Excess Development from the Red Roof site.

(1) confirm that maximum development envelope minus developed FAR (as established by zoning computation sheet and/or permit plans) = excess FAR

C. Confirm Methodology for Counting Excess Hotel FAR within Combined Lot Scheme.

(1) excess FAR from hotel site (approximately 23,000 square feet or 1.0 FAR) can be developed on subject property for residential use; and

(2) excess FAR will not be included in overall FAR calculations for combined lot development, but can be used to meet minimum residential requirement of a larger, commercial site.

(a) If excess FAR is counted in overall FAR calculations, it could serve to reduce commercial development potential of combined lot and therefore would not be built.

VI. Necessary B2A Relief

A. Variance from 0.5 FAR retail/arts requirement ground floor

(1) 5th Street exposure will not sustain retail

B. Variance from 15% recreational space requirement (§773)

(1) the 30,400 square foot recreation space requirement cannot practicably be provided on the site.

(2) the Downtown entertainment district location provides ample opportunity for recreation.

VII. Priority Project Designation

A. The developer requests priority project designation from the Development Ambassador Program

VIII. Project Timetable

A. Estimation of permit processing time requirements