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MEMORANDUM

DISTRICT OF COLUMBIA
OFFICE OF ZONING
SEP 26 A 8:48

TO: Jerrily Kress - Office of Zoning
Paul Hart

FROM: Dennis Hughes - Wilkes Artis

DATE: September 25, 2000

RE: BZA #16601 - Proposed Conditions

BZA
Case No. 16601
Exhibit No. 39

BY FAX

Thank you for giving us the opportunity to comment on the Proposed Conditions to BZA Order No.16601. As you can tell from the enclosures, the Proposed Conditions that you have drafted and the ones that we submitted to you earlier today discuss virtually the identical list of conditions. However, we would like to draw your attention to a few of the conditions you have proposed for which clarification and re-wording should be considered. All of the conditions have been reviewed by the staff of the Office of Planning.

In your second bulleted condition, you state that "the height of all four roof structures be a uniform 18'6". Steve Cochran of the Office of Planning, who made that request, amended the proposed condition at hearing to provide that the three roof structures with elevator equipment measure 18'6" in height but that the fourth roof structure, at the southeastern corner of the property, could measure a lesser height.

In your seventh bulleted condition, you state, "but in no circumstance shall the number of units be less than 20% of the total number of apartment units." As discussed at the hearing, the Applicant will reserve at least 20% of the total number of apartment units for affordable housing, however, according to your language, the Applicant would have to agree to reserve this 20% of affordable units in perpetuity, even beyond the terms of the DCHFA bond financing. This would have a devastating effect on the project in that it would severely affect the Applicant's ability to secure the private funding necessary in conjunction with the bonds. The Applicant suggests replacing the above-quoted language with, "but in no circumstance shall DCHFA financing be less than for 20 years."

Board of Zoning Adjustment
District of Columbia
CASE NO.16601
EXHIBIT NO.39

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In your twelfth bulleted condition, a similar perpetuity issue arises as that condition ignores the future of the site. As the Applicant's proposed condition number (8) provides, this concern could be corrected simply by adding at the end of your existing sentence, "for so long as the FAR obtained pursuant to the §1709 variance is used on the apartment house portion of the site."

As for your thirteenth bulleted condition, we would note that, as discussed at the hearing, the First Source Agreement pertains to the construction of the hotel operation, rather than the construction and the hotel operation.

We previously have a faxed a copy of the Applicant's Proposed Conditions to Steve Cochran in the Office of Planning. We also spoke with Mr. Cochran this afternoon and read the proposed conditions to him, whereby Mr. Cochran approved the Applicant's Proposed Conditions. Thank you for your earliest attention to this matter and for clarifying the issues to the Board for their public meeting on the Application at tomorrow's meeting.