VENABLE LLP

575 7th Street, NW
Washington, DC 20004-1601

Telephone 202-344-4000
Facsimile 202-344-8300

www.venable.com

Jerry A. Moore III

202-344-4763

jamoore@venable.com

June 2, 2005

BY HAND DELIVERY

Geoffrey Griffis
Chairman
DC Board of Zoning Adjustment
Office of Zoning
441 Fourth Street, NW
Suite 210 South
Washington, DC 20001

Re: BZA Application No. 17316:Randle Highlands Limited Partnership, Applicant

Dear Chairman Griffis and Members of the Board:

In a letter dated May 31, 2005, without giving a reason, Advisory Neighborhood Commission 7B ("ANC") has apparently decided to abandon the supportive position it took in its letter of May 5, 2005. It now recommends that this application be denied because the Applicant "...failed to meet [its]...burden of proof..." for the variance relief that has been requested. A new majority of the Commission has decided to adopt the view that the subject site is no longer "unique" and that a practical difficulty in developing the site, as required, no longer exists. Respectfully, neither change of position is substantiated in the record.

Actually, the documents on which the ANC relies to support its new recommendation only corroborate the Applicant's record submissions and its sworn and expert testimony that the property is unique. These documents further confirm the deed requirement that the subject property must be developed into affordable housing for first-time home buyers. The ANC proffers no other properties in the area that are so restricted. Taking issue, as it does, with the number of units that are proposed, does not diminish the unique status of the site. That the property is deed restricted, exclusive of other properties in the area, is sufficient to determine uniqueness.

The ANC's questioning of the number of units that are necessary to develop the site as required amounts to rhetoric without substance. These questions have arisen despite the Applicant's sworn testimony and record evidence supporting the practical difficulty of developing the site without the two units that would have to be eliminated to avoid variance relief. The ANC responds that it doesn't believe the Applicant's papers and testimony. The

BZA
Case No. 17316
Exhibit No. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 17316
EXHIBIT NO. 33

Commission, of course, is free to reach a different conclusion but its new argument defies the logic that building fewer "market rate" units practically increases the difficulty of building "affordable" units in the same development. It simply takes more, not fewer, market units to carry the costs of the affordable units.

The Applicant respects the ANC and the difficult deliberations it has endured in this matter. Its obvious that there have been opposing views among the Commissioners. However, the majority view that has belatedly emerged is neither justified by the evidence nor consistent with established city policy for the subject site. The ANC has neither said or produced any evidence that the granting of this application will have an adverse impact on the use and enjoyment of neighboring property or that granting the relief that is requested would cause substantial detriment to the public good or impair the intent, purpose and integrity of the Zoning Regulations and Map. On the other hand, the applicant has submitted substantial evidence into the record that the requirements of the Zoning Regulations have been met for the relief that has been requested. The Office of Planning report, in the record, further sustains the merits of this application.

For these reasons, the applicant respectfully requests that this application be granted.

Sincerely,

Jerry A. Moore III

cc: Advisory Neighborhood Commission 7B: By First Class Mail
Butch Hopkins
Michael Wallach
Matthew Wallach