

Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
Suite 210 South
441 4th Street, N.W.
Washington D.C. 20001

Re: BZA Application No 17360 (1270-1280 Talbert Street S.E.)

Dear Mr. Griffis,

This letter responds to the Office of Planning's Summary of Recommendation which withholds recommendation of approval of the proposed project of reference above until three outlined issues are satisfactorily addressed. Applicant respectfully submits the following in response to each item, as outlined:

1. FEMS requires access for the adequate provision of emergency services. The Office of Planning understands that a redesign of the site may be necessary in order to provide access. However, it is necessary for both public safety and conformance with the provisions of § 410.15

Whereas the Fire and Emergency Medical Services Department (FEMS) has expressed concern about what applicant assumes is a lack of vehicular access to what is the side yard, by zoning definition, but the area opposite the private access road by description, no evidence exists that such concern has reached the threshold of a requirement. Applicant has attached for the Board's review and perusal, correspondence between applicant and Mr. Tony Sneed, a Captain within FEMS, wherein changes to the site plan scheme have been directed specifically to mitigate the potential impact of a lack of vehicular access.

Applicant notes, as is already established in the Statement of Burden of Proof, the extreme topographical condition and shape of subject project, which combined with minimum width of private access road, conspire to constrain site layout as designed. Further, applicant submits that provision of vehicular access via a roadway in the location in question may over time compromise the structural integrity of the proposed retaining wall necessary to the development of subject property. The proposed project provides ample and adequate pedestrian access to the "rear" of the proposed building. Applicant submits that § 410.15 does not anticipate vehicular access to all of the group of building, in that it requires "Vehicular access to all or part of the group...." only when the Board finds the access necessary in the interest of public convenience and safety. The Board finds the

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property is, other than its frontage on Talbert Street and Talbert Terrace, landlocked; hence access unto subject property will be limited to occupants of the building. The properties perpendicular to the northeastern property line of subject property have vehicular access to Morris Road via an unpaved private access roadway or alley, therefore there exists no overriding interest of public convenience necessitating vehicular access in this area of the project and vehicular access unto subject site of application is ensured by the proposed private roadway spanning a significant part of the project site or group of buildings

As to the issue of public safety, since it is established that access unto the site will be limited to the occupants of the building, because of topographical conditions, shape and location of subject site, public safety is not negatively impacted for surrounding properties. The safety of occupants of the building is ensured because the proposed building is designed to comply with all applicable life and safety requirements of the International Building Codes (IBC 2000) and the D.C Building Codes Supplements (DCMR Title 12); which Codes constitute the controlling Codes in the matter of building permit issuance. All buildings in the group are outfitted with hard-wired smoke detectors as required by Code and all will be fully sprinklered.

Applicant notes that the private access road unto subject property has been widened to twenty-six feet (26 ft.) in conformance with applicable Fire Prevention Codes and provides three strategically placed fire hydrants along the roadway in excess of that required for similar linear distance. Applicant submits that the issuance of a building permit for this project, should the Board exercise its discretion in granting approval, is not contingent on FEMS approval.

2. The application indicates that a private street is proposed. No details of its construction were provided to DDOT. Therefore, the applicant must submit to DDOT either a letter indicating that the private street will not be dedicated or a copy of the application for dedication of the street.

The project comprises forty-six condominium units each to be sold fee simple separately; hence units may only be sold through the instrumentality of a condominium subdivision regime. The private access road constitutes a common element of this instrument and may not be extricated from the regime without infringement upon the property rights of all owners of interest in the property. Notwithstanding, applicant has submitted to DDOT a letter of guarantee indicating that the proposed private access road will not be dedicated.

3. Any wetlands on the site must be clearly demarcated and coordinated with the Water Quality Division of the Bureau of Environmental Quality.

Applicant submits that no evidence of the existence of wetlands on subject property exists, and that beyond the commitment of applicant to diligently work with the Water Quality Division to protect wetlands should evidence arise to its existence, no building permits may be issued without adequately providing for the protection of such wetlands, notwithstanding Board approval of the application before it.