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June 27, 2007

VIA HAND DELIVERY

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

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Re: Response to Tiber Island's Objection – Waterside Mall
Modification to First-Stage PUD Approval and
Application for Second-Stage PUD
Zoning Commission Case No. 02-38A

Dear Members of the Commission:

On behalf of the Applicant in the above-referenced case, this letter is submitted in response to the letter dated June 22, 2007, from counsel for Tiber Island Cooperative Homes, Inc. ("Tiber Island"). In that letter, Tiber Island objects to the lack of opportunity to cross examine the Applicant's one witness (Shalom Baranes) during rebuttal testimony presented at the public hearing on June 14, 2007.

It is the Applicant's position that Tiber Island waived its right to cross examine because it did not assert this right at the hearing. Tiber Island states in its letter that it attempted to get the attention of the Chair but was not successful. Tiber Island, however, had every opportunity to stand up and object to the lack of cross examination or address the Chair or staff, which is always permitted. Tiber Island neglected to take any of these actions and, thus, waived this right.

Even if Tiber Island did not waive its right to cross examination, Tiber Island is not prejudiced by the lack of an opportunity to cross examine Mr. Baranes. Mr. Baranes testified that the Applicant would be willing to consider Tiber Island's request for additional height and a smaller footprint for the East and West M Street Office Buildings. Mr. Baranes testified, and Mr. Quin, counsel to the Applicant,

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clarified, that the Applicant would work with both the community and the Office of Planning on this revision prior to bringing a second-stage application for these two buildings to the Zoning Commission. All that the Zoning Commission would approve in this case would be the right to modify the height and footprint of these buildings as shown in the current plans at such time as the Applicant returned for second-stage review. Tiber Island will be part of those discussions and will have the opportunity to participate in those public hearings in which the design and final height and footprint of the buildings are determined.

Furthermore, in his rebuttal testimony, Mr. Baranes simply reiterated his rationale for the design of the buildings and why these buildings fit well within the existing fabric of Southwest. Tiber Island had an opportunity and took that opportunity to cross examine Mr. Baranes regarding the design of the project.

Tiber Island also requests an extension for the preparation of the proposed findings of fact and conclusions of law. The Applicant objects to this extension. The Zoning Commission set forth the dates by which all remaining filings were to be filed. Tiber Island should have stated its concern related to the schedule at such time as those decisions were being made. As such, Tiber Island waived its objection to the due date for such filings.

We would appreciate the Commission taking up these matters at its upcoming public meeting on July 9, 2007. As the Commission was made aware at the hearing, it is essential that this case move forward as expeditiously as possible. The further hearing and time extensions requested by Tiber Island will serve only to delay these proceedings and potentially adversely impact this project which has received wide support from the community and the District as a whole.

Should the Commission have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact me.

Very truly yours,



Wayne S. Quin



Christy Moseley Shiker

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cc: Parties to Case (***See Attached Proof of Service***)
Jennifer Steingasser, Office of Planning (Via E-Mail)
Matt Jesick, Office of Planning (Via E-Mail)

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PROOF OF SERVICE

I hereby certify that on June 27, 2007, a copy of the foregoing Applicant's Response to Tiber Island's Objection was served on the following parties:

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