



Pillsbury
Winthrop
Shaw
Pittman LLP

RECEIVED

D.C. OFFICE OF ZONING

MAY 23 11:53

2300 N Street NW
Washington, DC 20037-1122

Tel 202.663.8000
Fax 202.663.8007
www.pillsburylaw.com

May 23, 2006

Allison C. Prince
Phone: 202.663.8853
allison.prince@pillsburylaw.com

Hand Delivered

Ms. Carol Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, Room 210
Washington, DC 20001

Re: **Zoning Commission Case No. 06-15—Application of Abdo New York LLC for a Consolidated PUD and Zoning Map Amendment for 2001 New York Avenue (Multiple lots and parcels in Square 4268);
Supplemental Submission of Applicant**

Dear Chairperson Mitten and Members of the Commission:

On March 22, 2006, Abdo New York LLC (the “Applicant”) submitted an application to the Zoning Commission for the consolidated review and approval of a Planned Unit Development (“PUD”) and a related amendment to the Zoning Map of the District of Columbia for multiple lots and parcels in Square 4268 (the “Subject Property”), to allow the construction of a mixed-use, predominantly residential project. In response to issues raised by members of the Zoning Commission at the Commission’s Public Meeting on May 8, 2006, the Applicant has revised certain aspects of the project’s design to address these concerns. Therefore, the Applicant respectfully submits the following supplemental information to its original PUD and zoning map amendment application. These documents include:

- (1) Written statement and plans addressing the height, density, and zoning of the PUD;
- (2) Written statement and plans addressing the design of the PUD;
- (3) Written statement and plans detailing the public open spaces created by the proposed PUD and addressing the appropriateness of the project’s private open space;
- (4) Written statement and massing illustrations that contextualize the PUD in light of existing and anticipated development along New York Avenue; and

**ZONING COMMISSION
District of Columbia**

CASE NO. 06-15

**ZONING COMMISSION
District of Columbia**
EXHIBIT NO. 13
CASE NO. 06-15
EXHIBIT NO. 13

- (5) Written responses to the Office of Planning's list of twenty-two issues, as set forth in its Setdown Report, dated April 28, 2006.

At the outset, the Applicant would like to stress that it has carefully considered the Commission's comments made during its May 8, 2006 discussion of the application. We appreciate the extensive feedback that was provided, and have made extensive changes in order to address the Commission's concerns. We believe that the material herein, in conjunction with our original March application, provides a complete package that demonstrates this challenging and ambitious PUD project has substantial merit and is worthy of being set down for a public hearing as a consolidated PUD. We look forward to the opportunity for further discussion and dialogue as part of a public hearing.

The Applicant's written statements follow below:

- **Height, Density, and Zoning:** In response to the Commission's concerns, the Applicant has removed two stories from Buildings "A", "B", and "C" to reduce the building height along New York Avenue from 130 feet to 110 feet. As a result, the originally-requested C-3-C zoning is not required, and the Applicant now requests the amendment of the Zoning Map to the CR Zone District. The purpose of the CR District is to "encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses." 11 DCMR § 600.1. It is intended for "selected geographic areas where a mixture of uses and building densities is intended to carry out elements of District of Columbia development plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality." 11 DCMR § 600.4. The CR District allows for a maximum height of 110 feet and FAR of 8.0 in a PUD project. The revised plans are attached as part of the Appendix, and a supplemental PUD zoning analysis is attached as Exhibit A.

The Applicant's revised project has a FAR of 5.5, well within the maximum matter-of-right FAR under the CR District regulations. Examples of areas in the District permitting medium density mixed use development, yet located outside of walking distance from a Metrorail station, are included in Exhibit B. Such areas include Georgetown, located ½ to 1 mile from the Foggy Bottom Metrorail station; Hechinger Mall, located approximately ¾ to 1 mile from the Stadium-Armory Metrorail station; and Upper Georgia Avenue, which is located over 1 mile from the Takoma Metrorail station. Also, as discussed during the May 8 Public Meeting, West End permits high density residential development and is ¼ to ½ mile from the Foggy Bottom and Dupont Metrorail stations.

- **Design**: As a result of the change in height, the Applicant has reconfigured the footprint of the proposed buildings to recoup the lost floor area that is critical to the viability of the project, while still maintaining much of the project's open space, pervious surfaces, and visual permeability. Plans, drawings, and renderings of the revised design are attached as the Appendix.
- **Open Space**: The Applicant wishes to clarify the availability of accessible open space created by the PUD. Significant public spaces are created by the project as public benefits.
 - a) First, the setback of the residential buildings allows for significant green spaces along Bladensburg Road and Montana Avenue that enhance the pedestrian streetscape. Along Bladensburg Road, the buildings are set back 34-35 feet from the building line, and 28-31 feet from the bays. Along Montana Avenue, the buildings are set back 9 feet from the building line and 3-5 feet from the bays.
 - b) Second, the service road and streetscape along New York Avenue provides an urban context appropriate for the proposed retail uses along a major arterial corridor. The service road, with two lanes of one way traffic and a row dedicated to on-street parallel parking services to "insulate" pedestrians from the busy New York Avenue corridor. Sidewalk widths of approximately 21 feet will provide a pleasant pedestrian experience for shoppers, with ample outdoor room for seating and café zones. Occasional retail bay windows project into the sidewalk, giving visual interest and articulation to the streetscape.
 - c) Third, near the middle of New York Avenue frontage, between the "B" and "C" buildings, the Applicant has designed a public "pocket park." (A detailed landscape plan illustrating this space is included in the Appendix.) This park is approximately 70 feet wide by 90 feet deep at the street level, and extends into the block with retail frontage on three sides. The pocket park functions as an oasis from the busy New York Avenue environment; it features outdoor seating and a double row of ornamental trees at its center. Situated at the back of the pocket park is a smaller retail space, ideal for a café or small restaurant. On one side of the pocket park, a grand stair will lead to an upper-level landscaped terrace that provides additional outdoor seating and offers views of the central park. (Handicapped access to the terrace will be provided by an elevator in the retail space below.)

- d) Fourth, at the intersection of Bladensburg Road and Montana Avenue, the massing of the "F" building is set back to create a triangular public park, approximately 60 feet wide by 70 feet deep. The triangle park is ringed by the public sidewalk on the outside and landscaping on the inside; it features an inner circular plaza centered around a fountain that provides a tranquil pedestrian oasis. Planter walls are set at 18 inches high to provide seating walls around the inner right. Again, a detailed landscape plan for this park is included in the Appendix.

By contrast, the interior open space is intended to be a project amenity to be maintained and shared by the residents of the PUD. This significant amenity is appropriate for a primarily residential development of this size. The site plan is intentionally designed to allow pedestrian and vehicular traffic alike to see the interior central park. Moreover, the combination of high-quality architecture and ample greenspace represents a marked visual improvement over the existing use of the Subject Property.

- **Context:** With the approval and construction of this PUD, and limited additional development in the surrounding area, this site, located at the first traffic light for traffic entering the District, will be transformed into part of a thriving, aesthetically pleasing, and functionally useful corridor.

The proposed project is mentioned as part of a finite area designated for land use change both in the draft Industrial Land Use Study and on the draft Generalized Policy Map for the revised Comprehensive Plan. This area for change includes the Subject Property as well as land across all three surrounding streets, including the following areas:

- to the west, properties on the west side of Montana Avenue and Bladensburg Road, to West Virginia Avenue and Mount Olivet Cemetery;
- to the east, properties on the east side of Bladensburg Road south of T Street (adjacent to the existing Arboretum community); and
- to the north, properties on the north side of New York Avenue to the railroad tracks. The draft Industrial Land Use Study extends this area of change eastward, along the north side of New York Avenue, for a full mile to the Fort Lincoln area, where U.S. Route 50 changes to a limited access highway.

These limited areas for change offer the opportunity for supplemental rezoning and redevelopment that will step down from the PUD and provide a meaningful, organic context for the proposed neighborhood. The Applicant's architects have prepared massing illustrations of the project's relationship to existing and proposed development along New York Avenue in the Appendix.

As the Office of Planning explained during the May 8 meeting, there are natural boundaries that contain this area for change, including the National Arboretum, Mount Olivet Cemetery, and the railroad tracks to the north. Further, the PUD strikes an appropriate balance between the retail supply and residential demand it creates. The project's retail and other amenities provide the future residents with many of the locally-based resources they would desire and need. Conversely, the amount of housing created by the PUD provides those retail uses and other amenities with the consumer base they need to thrive. The combination of natural borders and a balance of market forces will, as a result, reduce pressures to redevelop surrounding areas beyond the areas marked for change.

- **Open Issues:** Finally, the Applicant has provided additional information to address the Office of Planning's concerns listed in its April 28, 2006 Setdown Report.

1) Recalculation of Retail and Recreation Parking Spaces.

The parking was correctly calculated on the basis of the gross square feet number with an exclusion for the space devoted to parking and loading.

Section 2118.4 of the Zoning Regulations provides: "In computing the number of parking spaces required, the portion of the gross floor area . . . devoted to parking spaces, loading berths, loading platforms, service/delivery loading spaces, and vehicular access to parking spaces, may be excluded." Therefore, the parking, loading, and service delivery spaces included in "gross retail" should not be used to compute parking.

We have calculated the area of "gross retail," for purposes of parking, to be 145,850 square feet.¹ Therefore, pursuant to Section 2101.1 of the Zoning Regulations, we are required to provide 191 spaces for retail uses.²

¹ This adds in the service corridors shaded in grey on Page A018 of Applicant's March 22, 2006 submission, which are included as gross floor area for purposes of computing required parking.

² $145,850 \text{ s.f./g.f.a.} - 3,000 \text{ s.f.} = 142,850 \text{ s.f./g.f.a.} \div 750 \text{ s.f./g.f.a.} = 191 \text{ spaces.}$

As for recreational parking spaces, according to the Zoning Regulations, for recreational buildings or uses in all districts, Section 2101.1 requires 1 space for every 2,000 square feet devoted to the building or use. Therefore, we are required to provide 23 spaces for recreational uses in the Arbor Club.

The project provides 620 parking spaces for the combined retail (145,850 s.f.) and recreational (44,950 s.f.) uses. Subtracting the 23 recreational spaces from that total leaves 597 spaces for retail use, which still amounts to a ratio of over 4 parking spaces for every 1,000 square feet of gross retail space³, as defined by the Zoning Regulations for purposes of calculating required parking. Therefore, the Applicant provides over 4 spaces per 1,000 square feet of gross retail space, even after accounting for required parking for the recreational building.

Please note that our architectural consultants have prepared a supplemental ground floor plan to more clearly convey this information. It is attached as part of the Appendix.

2) Affordable Housing.

In the original application, the Applicant proposed 250,000 square feet of affordable housing at the 80% AMI level based on a total of 3,000-4,000 residential units and a total residential gross square footage of 3,452,575. Pursuant to further discussions with the Office of Planning, the Applicant has agreed to provide affordable housing in the amount of 8% of the total square footage devoted to residential use. 8% of the density set forth in this supplemental statement will represent one of the largest (if not the largest) private subsidies of affordable housing offered by a private, for-profit developer in a single project. It is particularly noteworthy that this housing is being offered in an area that is not proposed to be mapped with Inclusionary Zoning. This project, with its total unit count of 3,800-4,100 units, its complete lack of residential displacement, and its commitment to affordable housing (without any subsidies) may represent the single most significant effort to promote the Mayor's dual goals of adding 100,000 new residents to the District of Columbia by 2010 and addressing the declining supply of affordable housing.

³ The exact ratio is approximately 4.1 spaces per 1,000 square feet of gross retail space (597 spaces ÷ (145,850 s.f. 1,000 s.f.).

3) Commitment to Duration for Affordable Housing.

The Applicant commits to provide the proffered workforce affordable housing for twenty years.

4) Commitment to Provision of Additional Amenities and Benefits.

Below please find an updated list of the Applicant's proffered project amenities and public benefits, based on the list in Section 2403.9⁴:

- *Exemplary urban design, architecture, landscaping, and creation of open space:* The proposed PUD replaces unattractive and underutilized properties, such as a strip club and junkyards, with high-quality, architecturally significant structures appropriate for the Gateway location. Streetscape improvements will be made along New York Avenue, Bladensburg Road and Montana Avenue to enhance the pedestrian experience and appearance of these streets as well for its occupants, neighbors, and customers. The PUD's design, made possible by the requested change in zoning and associated height, provides a lot occupancy of only 62% and additionally creates 2.5 acres of true pervious surface.
- *Site planning, and efficient and economical land utilization:* As noted above, the Applicant's site plan provides for a lot occupancy of 62% and the creation of significant open space throughout the project. Further, vehicular circulation and parking design minimizes conflicts with ground-level pedestrian uses and provides separate points of entry for retail and residential uses. Residential and retail drop-off areas are created along all three streets, including an elegant porte-cochere for the corner building at Montana Avenue and Bladensburg Road. Finally, in order to enhance the retail streetscape along New York Avenue, Applicant will create a service access road along New York Avenue to provide access and parking for the retail portions of the PUD project. This service road will effectively expand the right of way along New York Avenue by approximately 29 feet and will improve the streetscape along one of the District's most prominent gateways.

⁴ This list includes the Amenities and Benefits already detailed in Section VI.E (pages 16-17) of the Office of Planning's Setdown Report. New or updated amenities are denoted with asterisks.

- *Parking:* The proposed PUD offers a residential parking-to-unit ratio greater than 1 to 1, and, as detailed above, a retail parking ratio greater than 4 spaces per 1,000 gross square feet of retail space.
- **Housing and Affordable Housing:* The PUD creates 3,800-4,100 housing units. Further, as detailed above, the Applicant commits to the devotion of eight percent of the residential gross floor area to workforce floor area. Additionally, many of the market-rate units will be marketed as workforce housing. This will be the largest private subsidy of affordable housing in the District.
- *Uses of Special Value—Grocery and Retail:* Applicant will provide space designed for a full-service, community-oriented grocery at the intersection of New York and Montana Avenues, in an underserved part of the District. This will, along with additional ground-floor retail provided for along New York Avenue, capture retail sales that currently leave the city.
- **Environmental Benefits—Low-Impact Development Practices:* The Subject Property lies ¼ mile from two significant open spaces—the U.S. National Arboretum and the Mount Olivet Cemetery. Presently, the Subject Property is virtually covered with impervious surfaces and is used, to a large degree, for automobile storage and maintenance. The Applicant intends to use low-impact development practices that will significantly improve the environmental conditions in and around the site. Most significantly, 16% of the site, or 2.5 acres, will be converted into true pervious surface area. A detailed list of these sustainable development practices, prepared by our architectural consultants, is attached as Exhibit C.
- *Uses of Special Value—Generation of Revenue:* The proposed mixed-use development will generate substantially more revenue—in the form of recordation, transfer, property, income, sales, use, and employment taxes—than either the existing uses on the site or any redevelopment of the site for other PDR uses.
- **Effective and Safe Vehicular/Pedestrian Access and Transportation Demand Measures:* As noted above, the proposed PUD's design and planning creates an active urban pedestrian streetscape at ground level that minimizes conflicts with vehicles. Further, the retail and residential portions have dedicated entrances that minimize vehicular circulation conflicts. Finally, the proposed service access road along New York Avenue will enhance access to the retail portions of the project along New York Avenue. The Applicant will work with the District Department

of Transportation (DDOT) to bring the project's design into alignment with the Draft New York Avenue Corridor Study's recommendations for a single-point urban interchange at the New York Avenue/Bladensburg Road intersection.

- **Other benefits—Development of land adjacent to the neighborhood homes:* The Applicant currently has optioned a parcel of land on Bladensburg Road immediately adjacent to the Arboretum community. If Applicant exercises that option, it intends to redevelop the land in a manner that is appropriate for its location at the entrance to the U.S. Arboretum.
- **Other benefits—Arbor Club:* The Applicant will allow residents of Ward 5 to join its \$12 million, 40,000 square foot amenities building, known as the "Arbor Club." In addition to day care and fitness facilities, the Arbor Club will feature periodic programming of classes and/or events for seniors.
- **Other benefits—Arboretum Recreation Center:* The Applicant will contribute to improvements and renovations of the Arboretum Recreation Center at 24th and Rand Place, N.E.
- **Other benefits—Washington Humane Society:* The Applicant will contribute to improvements and renovations of the Washington Humane Society's D.C. Animal Shelter at 1201 New York Avenue, N.E.
- **Other benefits—Friends of the Arboretum:* The Applicant will contribute to the organization's support and promotion of the U.S. National Arboretum, located ¼ mile from the proposed PUD.

5) Commitment to a Local, Small, and Disadvantaged Business Enterprise Agreement and First Source Employment Agreement.

The Applicant commits to enter into a Memorandum of Understanding with the Office of Local Business Development to use the resources of the OLBD to utilize local business enterprises in the development of this project. Further, the Applicant will voluntarily enter into an agreement to participate in the Department of Employment Services' First Source Employment Program to promote and encourage the hiring of District of Columbia residents.

6) Detailed Traffic Analysis.

The Applicant's traffic consultant, Wells and Associates, has finalized its traffic study and forwarded it on to both OP and DDOT for their review.

7) Transportation Management Plan.

Again, the Applicant's traffic consultant, Wells and Associates, has forwarded a finalized study, which includes a transportation management plan, on to both OP and DDOT for their review.

8) Shuttle Bus.

The Applicant will provide a shuttle bus service to a nearby Metrorail station in order to increase the site's connections to the District's mass transit system. The details for this service, including hours of operation, will be provided at the public hearing. The addition of 3,800-4,100 residential units will create a increased demand for Metrobus service, and Applicant has begun discussions with the Washington Metropolitan Area Transportation Authority (WMATA) about the expansion of bus service to the neighborhood.

9) Clarification of the Gross and Net Floor Area

See the Appendix.

10) Narrower Range of Residential Units.

The Applicant has narrowed the range of residential units to 3,800-4,100 units. This provides a ten percent range, consistent with typical PUD design at this stage of development.

11) List of Retailers.

The Applicant has provided the Office of Planning with a list of potential retailers with which it has discussed space in the proposed PUD.

12) Affordable Housing (as a percentage of gross floor area).

See response to #2, above.

13) Location and Distribution of Affordable Units.

The affordable units will be evenly distributed throughout the proposed PUD.

14) Perspective and View Shed Studies.

See the Appendix.

15) Estimation of the Project's Impact on Schools.

The Property is within the boundary for Langdon Elementary School (for grades K-6), Marshall Education Center (for grades 7-8) and Dunbar High School (for grades 9-12), as indicated on the maps included in Exhibit D. As demonstrated on the table in Exhibit D, all three schools are under capacity.⁵ More importantly, all three schools fail to draw a significant number of the possible students within their borders (the "Residents"). As the table shows, only 46% of Residents attend Langdon, only 62% attend Marshall, and only 38% attend Dunbar. Due to school choice options, other students likely attend private schools, charter schools, and other public schools within the District. As a result, only 47% of the students enrolled in Langdon, 48% of the students enrolled in Marshall, and 35% of the students enrolled in Dunbar are Residents. Therefore, there is substantial capacity within each school to accommodate additional students from within its school zone boundary.

The proposed PUD is expected to have 3,800 to 4,100 total units. While we know of no formula for estimating the impact of a development on school facilities, the number of potential new students is tied to the unit mix in the proposed development. The Applicant estimates that, based on current market trends, the proposed development will contain 15% two-bedroom units, 50% one-bedroom units, and 35% studio units. More relevantly, new students are most likely generated by two-bedroom units, which might support families, while studio and one-bedroom units are more likely to have single individuals and couples. Therefore, based on the above, the proposed PUD will feature between 570 and 615 two-bedroom units.

Furthermore, the Applicant estimates that 1.5 children will be generated per two-bedroom unit (some families may have two or more children, while other two-bedroom

⁵ Sources include the District of Columbia Public Schools Facilities Master Plan Update, dated Fall 2003, and the DCPS Building Capacity Analysis, dated March 2006, and compiled by the 21st Century Education Fund.

units may be owned by residents without families). Therefore, based on a the proposed PUD can be expected to generate approximately 855 to 923 children. Of these, children, approximately 25% will be ages 0-4, and therefore not attending any public school. Therefore, the PUD will add approximately 641 to 693 school-age children (ages 5-19).

Of these school-age children, approximately 54%, or 346-374 students, will be potential elementary school attendees for Langdon Elementary School. However, as indicated above, due to school choice, only 48% of Residents actually attend Langdon, and we can expect families in the the proposed PUD to follow that trend. Therefore, the proposed PUD can be reasonably expected to add approximately 159-172 students to Langdon Elementary. Langdon had 298 spaces open for Residents in 2003, and can reasonably be expected to absorb the additional students generated by the proposed PUD.

Approximately 15%, or 96-104 students, would be potential middle school attendees for Marshall Education Center. As indicated above, only 62% of Residents actually attend Marshall. The proposed PUD will likely add only 60-65 middle school students to Marshall. Marshall had 212 spaces open for Residents in 2003, and can be reasonably expected to absorb the additional students.

Approximately 31%, or 199-215 students, would be potential high school attendees at Dunbar High School. As indicated above, only 38% of Residents actually attend Dunbar. The proposed PUD will therefore likely add only 76-82 students to Dunbar High. Dunbar had 618 spaces open for Residents in 2003, and can certainly be expected to absorb the additional students.

16) Water and Sewer Impact Assessment.

Attached as Exhibit E is a detailed water and sewer assessment of the PUD project.

17) Job Creation.

As the Office of Planning indicated both in its April 28 preliminary report and at the May 8 public meeting, the proposed PUD will provide significantly more jobs than it eliminates on the Subject Property. Further, the creation of 3,800 – 4,100 residential units will generate spin-off employment opportunities. Finally, the project's construction will ~~create temporary construction jobs.~~ The Applicant has engaged a consultant to provide a detailed assessment of the jobs created by this proposed PUD for the public hearing.

18) Secure Pedestrian Shortcuts.

The Applicant has revised the project design to create an attractive and secure pedestrian pathway along the public and proposed private alleys at the Subject Property's northeast corner. This pedestrian shortcut, which will be built entirely on private property, will provide residents of the nearby Arboretum neighborhood with safe and convenient access to retail along New York Avenue. (A plan detailing this pedestrian connection is included in the Appendix.) The Applicant notes that, on the project's west side, the retail storefront wraps around the "A" Building to front, in part, on Montana Avenue.

19) Revenue Creation.

The Subject Property currently generates less than \$300,000 in property taxes. As the Office of Planning indicated at the May 8 public meeting, the project will generate over \$11 million in property, sales, income and recordation taxes over the next ten years. Again, the Applicant has hired a consultant to provide a detailed analysis of the revenue that will be generated by the proposed project at the public hearing.

20) [duplicative of #18]

21) Architectural Refinements.

See plans attached as Exhibit A.

22) Additional Amenities.

See response to #4, above.

Included in this Supplemental Filing is an Appendix with the plans, elevations, and massing illustrations that depict the revised PUD project, and the following Exhibits:

- Exhibit A – A supplemental PUD zoning analysis;
- Exhibit B – List of medium-to-high density development areas located outside of walking distance from Metrorail stations;
- Exhibit C – List of sustainable development practices employed in the PUD;
- Exhibit D – Chart detailing District public school capacity and maps of school boundaries; and

May 23, 2006

Page 14

- **Exhibit E** – Chart assessing the PUD's water and sewer requirements, and letter from D.C. WASA.

The attached documents address the issues that were raised by the Commissioners at the May 8, 2006 Public Meeting in this case. This Supplemental Filing and the materials submitted to the Zoning Commission on March 22, 2006 satisfy the filing requirements for a PUD and Zoning Map Amendment application. The Applicant looks forward to the Zoning Commission's review of this application at the June 1, 2006 Special Public Meeting.

Sincerely yours,



Allison C. Prince



David M. Avitable

Enclosures

cc: Eric Price
Steve Cochran, OP