District of Columbia Office of Planning

TO: District of Columbia Zoning Commission
FROM: Jennifer Steingasser, Deputy Director- Development Review & Historic Preservation
DATE: March 1, 2012
SUBJECT: Supplemental Report – Response to Applicant's February 23, 2012 Post-Hearing Submission for ZC 10-28 – Consolidated PUD at 901 Monroe Street, N.E.

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I. POST-HEARING MEETINGS BETWEEN APPLICANT AND MEMBERS OF THE COMMUNITY.

Staff members attended the following meetings:

- February 13, 2012. Discussion with the one community attendee focused on the community benefits package, particularly security cameras and promotion of local businesses and jobs;
- February 20, 2012. Barbara Kahlow and ANC 5A07 Commissioner Carolyn Steptoe represented 15 residents living within 200 feet of the proposed project, approximately 10 of whom were present. Ms. Kahlow indicated which proffers she felt were relevant and acceptable to the group, and what would constitute an adequate construction management agreement.

The Applicant's February 23, 2012 filing made changes to the proffers and construction management agreement that incorporated some of the desires expressed by participants in the two meetings, but at the second meeting fundamental differences remained over the applicant's requested C-2-B zoning, and the applicant's reluctance to accept proposed procedures for using monetary penalties to enforce the construction management agreement.

II. REQUESTED ARCHITECTURAL RENDERINGS

The applicant has submitted all the depictions requested by the Zoning Commission.

The applicant was given the option of submitting a massing diagram for a PUD that could be developed with related C-2-A zoning, but did not choose to file one.

III. OP COMMENTS ON PROPOSED CHANGES AND ADDITIONS TO THE AMENITIES AND COMMUNITY BENEFITS PROPOSALS.

$5,000 credit for adjacent 10th Street Property Owners: Responding to resident concerns, the applicant has proffered a credit of $5,000 for each of the six residential properties that will remain on 10th Street. The property owner would be free to instruct the applicant to use this credit for rebuilding of front retaining walls, additional landscaping and screening between the back yards and the future PUD or some combination thereof. To avoid confusion, the applicant should clarify that it will document the pre-construction condition of front retaining walls on 10th Street, and will repair any construction-related damage to the wall (s) from its own monies, not from the $5,000 credit.

Cash Contributions and Compliance with Intended Outcomes: The loans, façade improvements, equipment purchases and services that are intended to be funded with these contributions would addresses needs identified in the Comprehensive Plan and the Small Area Plan. However, the applicant's "Mechanism to Ensure Compliance" (February 23, 2012 filing, Tab C, p. 5) continues to structure the delivery of these benefits through the cutting of checks to non-profit third parties. – This method would be very difficult for the Zoning Administrator or the Office of Zoning to monitor and enforce. The applicant's proposed enforcement clause

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also explicitly absolves the applicant of any responsibility for ensuring the execution of the benefits the contributions are intended to enable.

Therefore, prior to a final decision by the Commission, the applicant should restructure these contributions into enforceable proffers, the execution of which are substantially linked to the receipt of an occupancy permit for the proposed building. The applicant should bear the responsibility for direct purchases, construction or installation, establishment of escrow funds that can be drawn down with proper documentation, et cetera; and for returning to the Commission with modification requests if these benefits cannot be delivered.

JLS/slc
Stephen Cochran, AICP – project manager