


Capitol Hill / Southeast

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Executive Director
Susan Eads Role

November 20, 2014

Anthony J. Hood, Chairman
Zoning Commission
Office of Zoning
441 4th Street NW, Room 220 South
Washington, DC 20001

OFFICERS

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Brian Flahaven

Vice-Chair
Ivan Frishberg

Secretary
Nichole Opkins

Treasurer
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SMD 7 *Sara Loveland*
SMD 8 *Chander Jayaraman*
SMD 9 *Brian Flahaven*
SMD 10 *Francis Campbell*

VIA: Interactive Zoning Information System Filing

RE: ZC #13-12, 1333 M Street SE, first-stage planned unit development (PUD) & related zoning map amendment from M Zone District to C-3-C Zone District & consolidated PUD for Phase I of proposed development

Dear Chairman Hood:

At its regularly called, properly noticed special call meeting on November 19, 2014, with a quorum present, Advisory Neighborhood Commission (ANC) 6B voted 5-0 to support the above-referenced request and approve the enclosed memorandum of understanding (MOU). Please note that Exhibit A and Exhibit B referenced in the MOU have been filed with the Zoning Commission by the applicant as Exhibits 10A1 through 10A4 and Exhibits 10B1 through 10B7, respectively. ANC 6B also voted 5-0 to approve the enclosed testimony of ANC 6B before the Zoning Commission.

Please find enclosed a completed copy of Form 129.

Please contact Commissioner Nichole Opkins at 202-631-2154 or nichole6b06@anc6b.org if you have questions or need further information. Thank you.

Sincerely,



Brian Flahaven
Chair

Enclosures



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to §§ 3012.5 and 3115.1 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:	13-12	Case Name:	1333 M St., SE, LLC
Address or Square/Lot(s) of Property:	1333 M Street SE; Sq 1025 E, Lot 802; Sq 1048 S, Lots		
Relief Requested:	1st. stage PUD, Consolidated PUD, E Related Map Amendment from M to C-3-C 1, 801, & 802; & Reservations 129 & 259		

ANC MEETING INFORMATION

Date of ANC Public Meeting:	11/1/14	Was proper notice given?:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Description of how notice was given:	e-mail distribution; website			

Number of members that constitutes a quorum:	5	Number of members present at the meeting:	5
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MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (a separate sheet of paper may be used):

Please see attached letter, memorandum of understanding, and testimony.

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (a separate sheet of paper may be used):

Please see attached letter, memorandum of understanding, and testimony.

AUTHORIZATION

ANC	6 B	Recorded vote on the motion to adopt the report (i.e. 4-1-1):	5-0-0
Name of the person authorized by the ANC to present the report:	Chair or designee		
Name of the Chairperson or Vice-Chairperson authorized to sign the report:	Brian Flahaven		
Signature of Chairperson/ Vice-Chairperson:		Date:	11/21/14

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "**MOU**" or "**Agreement**") is made this 20th day of November, 2014, by and between 1333 M STREET, S.E., LLC, a Maryland Limited Liability Company ("**Developer**"), and ADVISORY NEIGHBORHOOD COMMISSION 6B ("**ANC**"). Developer and the ANC are collectively referred to herein as the "**Parties**."

RECITALS

A. Developer is the owner in fee simple of certain real property located at premises 1333 M Street, S.E., in the District of Columbia and designated as Sq. 1025E, Lot 802; Sq. 1048S, Lots 1, 801 and 802; and Reservations 129 & 299 (the "**Subject Property**"). The Subject Property consists of approximately 2.9 acres, and is a triangular-shaped parcel bounded by M Street, Virginia Avenue, and Water Street.

B. Developer desires to develop the Subject Property with a planned unit development ("**PUD**") that consists of approximately 517,491 square feet of residential use, generating approximately 673 dwelling units in three buildings, and approximately 10,370 square feet of retail use. Retail and residential parking will be provided for the project overall as required by the Zoning Regulations. The building heights for the project will range from 90 feet to 110 feet. The proposed FAR is 4.14 and the proposed lot occupancy is 45%. The project requires flexibility from the loading requirements for each building. Buildings 1 and 2 each will have a 30' loading berth in lieu of a 55' loading berth; and Building 3 will not having any loading facilities. The project also requires flexibility for phasing of the approval.

C. On October 30, 2014, Developer filed ZC Case No. 13-12 with the District of Columbia Zoning Commission ("**Commission**" or "**ZC**") for approval of a first stage planned unit development ("**PUD**") for the proposed project and a map amendment from M to C-3-C District for the Subject Property and approval of a consolidated PUD for Phase I of the project (the "**Application**").

D. Phase I of the PUD includes the construction of a 10-story residential tower containing approximately 181,911 square feet, generating approximately 218 dwelling units and an underground parking garage with approximately 57 spaces on what is identified as Theoretical Lot 1 on the plans for the Application. The maximum height of the tower will be 100 feet. Phase I also includes significant landscaped and open areas and the construction of 44 surface parking spaces on what is identified at Theoretical Lot 2.

E. The PUD process ensures that the project provides appropriate and adequate project amenities and public benefits for area residents and the community.

F. The Parties understand that the ANC may enter into contracts but may not initiate suit in DC courts. The Parties nonetheless intend this Agreement to be enforceable fully.

G. Developer commits to the spirit and goal of reconnecting Capitol Hill and Hill East to the Anacostia River. Via the Capitol Riverfront Business Improvement District, Developer has committed to supporting ANC 6B in its discussions with the Office of Planning and the District Department of Transportation regarding the Southeast Boulevard and Barney Circle Neighborhood Study. This commitment to reconnecting the community to the river is one of great importance that will have a positive impact on local residents.

H. The proposed PUD and related map amendment are consistent with the Comprehensive Plan Future Land Use Map, which designates the Property Mixed Land Use Medium Density Commercial/Institutional. ANC 6B supports the application which includes a request for a related zoning map amendment from the M to the C-3-C District, consistent with the Medium Density Commercial/Institutional designation on the Future Land Use Map of the Comprehensive Plan.

UNDERSTANDING OF THE PARTIES

Provided that the ANC supports the proposed redevelopment of the Subject Property and the Application to effectuate the project (“support” shall be indicated by a majority vote of the ANC on a resolution or motion supporting the proposed redevelopment), Developer agrees to the following:

1. **Restricted Uses**

The following uses, even though permitted within the C-3-C District as a matter of right or with special exception approval by the BZA, will not be permitted on the Subject Property: the sale of any pornographic material; a check-cashing establishment; a pawnbroker; a night club. Notwithstanding the foregoing, the Parties agree that the ANC may recommend approval of a prospective tenant otherwise prohibited in this paragraph that the ANC believes would provide substantial value for the community. Such recommendation shall be granted by the ANC only by a formal resolution.

2. **Development Plans**

The Subject Property shall be developed substantially in accordance with the architectural plans and elevations attached hereto as Exhibit A and Exhibit B, respectively.

3. **Project Benefits and Amenities**

a. Public Space Improvements. Developer, or its successors/assigns, shall construct the following improvements in connection with the PUD:

- During Phase I of the project, on the south side of M Street, Developer shall install permeable paver parking spaces and low impact development basins with plantings and street trees for stormwater management.
- During Phase I of the project, Developer shall install a wildflower meadow along the Water Street right-of-way. The wildflower meadow provides an opportunity to increase plant biodiversity, create wildlife habitat, slow stormwater runoff and stabilize slopes. The meadow also preserves some of the open space quality of the existing site while reactivating it with the new proposed design and clears out the overgrown and visually impairing vegetation currently along Water Street.
- During Phase I of the project, Developer shall construct a public dog park where 14th Street terminates at the project.
- During Phase I of the project, Developer shall improve M Street and construct an extension of Virginia Avenue south of M Street as well as construct an internal north-south private street. The roadway improvements will generate new on-street public parking.
- During Phase I of the project, Developer shall construct a sidewalk on the south side of M Street that extends the length of the Subject Property.
- During Phase II of the project, Developer shall construct an uninterrupted 8-foot wide, paved Anacostia Riverwalk Trail segment along the north side of M Street that connects to the traffic circle near 13th Street, SE and the existing trail at 14th Street SE.
- During Phase II of the project, for that portion of M Street along the frontage of the Subject Property, the Developer shall pave the entire width of the street.
- During Phase II of the project, Developer shall construct a public plaza at the termination of Virginia Avenue, and a monumental staircase

leading to lower plaza area that extends to Water Street across from the District Yacht Club. The public plaza is designed as an active gathering space and a connection to the waterfront.

- During Phase II of the project, Developer shall construct a sidewalk along the north side of Water Street, extending from M Street to the lower plaza.
- During the phased development, the project will include large green space for public use. Specifically, during Phase I of the project, there will be a lawn area at the termination of the pedestrian promenade along Virginia Avenue. Also, during Phase II of the project, there will be a large triangular green space on the west side of the project where Building 2 is proposed.

b. Lighting. In response to community concerns and ANC 6B's request for better lighting on M and Water Streets, during Phase I of the project, and in subsequent phases, Developer shall install lighting around the perimeter of the Subject Property.

c. Affordable Housing. In response to ANC 6B's request for larger affordable units suitable for families, Developer will set aside in the Phase I building four two-bedroom units for households whose income does not exceed 60% AMI. The remaining affordable units -- a mix of studio and one-bedroom units -- will be for households with incomes not exceeding 80% AMI in accordance with the Inclusionary Zoning requirements. This affordable housing component will exist for the life of the project.

The subsidy required to provide two bedroom affordable dwelling units at 80% AMI as required under the Zoning Regulations amounts to \$326,000. The subsidy required to support the two bedroom units at 60% AMI as proffered by Developer amounts to \$131,000 per unit. Therefore, reserving all of the two-bedroom units in Phase I of the PUD at 60% AMI results in additional subsidy of \$524,000 for the project. This additional affordable housing subsidy is a benefit of the PUD, as described under Section 2403.9 of the Zoning Regulations.

d. Improvements to and Connection to the Waterfront. A portion of the lower plaza and the continuation of the promenade paving pattern, at the base of the monumental stair, are within public space in order to provide a connection from M Street to the waterfront. Developer shall bear

maintenance responsibility for the portion of these improvements that are outside of the property line.

e. LEED Qualification. Developer commits that the resulting PUD will achieve the equivalent of LEED Silver.

4. **Transportation**

a. The Applicant shall run a shuttle service either individually or as a collective with other stakeholders in the BID between the Subject Property and Navy Yard – Ball Park Metro Station.

b. Developer shall implement the following transportation demand management measures in conjunction with the PUD:

- A member of the property management team will be designated as the Transportation Management Coordinator (TMC). The TMC will be responsible for ensuring that information is disseminated to tenants of the building. The position may be part of other duties assigned to the individual.
- Information on and/or links to transportation programs and services will be provided on the property management website. Such programs and services may include:
 - Capital Bikeshare
 - Car-sharing services
 - Uber
 - Ridescout
 - Commuter Connections Rideshare Program, which provides complimentary information on a variety of commuter programs to assist in determining which commuting options work best for commuters.
 - Commuter Connections Guaranteed Ride Home, which provides commuters who regularly (twice a week) carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home in an emergency.
 - Commuter Connections Pools Program, which incentivizes commuters who currently drive alone to carpool. Participants can earn money for carpooling to work and must complete surveys and log information about their experience.

- DDOT's DC Bicycle Map
 - goDCgo.com
 - WMATA
- An electronic display will be provided in a common, shared space in the building and will provide public transit information such as nearby Metrorail stations and schedules, Metrobus stops and schedules, car-sharing locations, and nearby Capital BikeShare locations indicating the number of bicycles available at each location.
 - Convenient and covered secure bike parking facilities will be provided with each phase of the development with storage for a minimum of 224 bicycles for the entire development. Bike stands will also be provided for public use along the extended Virginia Avenue SE and M Street SE.
 - At initial occupancy, the Applicant will provide a one year Capital BikeShare membership or the registration fee for Car2Go, which would give each initial residential unit that chooses the Car2Go option a lifetime membership to Car2Go since it does not have an annual membership fee.
 - A minimum of 10 bicycle helmets will be made available for use by the residents.

5. **Construction**

- a. Hours. Developer, its tenants, and contractors will not engage in any construction activities, other than emergency repairs, before 7:00 a.m. and after 7 p.m. Monday - Friday, or before 8:00 a.m. and after 7:00 p.m. on Saturday. Developer and its contractors will not engage in any construction work on Sunday.
- b. Construction Worker Parking. Developer, its tenants, and contractors will provide adequate on-site parking for construction workers during all phases of this project.
- c. Trash Removal. Developer, or its tenants, will promptly remove all trash and construction debris from the public space located between the property line and the adjacent curb.
- d. Community Liaison. Developer, or its tenants, will establish a Point of Contact (POC) who will serve as the Community Liaison. The POC's duties will include, but are not limited to, answering community questions regarding the project and solving issues arising from construction.

The POC's contact information will be widely available throughout the community.

6. **ANC Support of Project**

The terms and provisions of this MOU are contingent upon the formal support of the ANC at all public hearings and other related proceedings on the Application before the Zoning Commission, which the ANC elects to attend. For avoidance of doubt, the ANC may offer suggestions regarding and criticism of elements of the Application without affecting the validity of this Agreement, so long as same occurs within the context of formal support of the Application as a whole. The terms and provisions of this MOU are further conditioned upon final approval of the Application by the Zoning Commission as evidenced by the issuance of a final written order by the Zoning Commission.

7. **Amendments**

The Parties hereto reserve the right to amend this document at any time with the written agreement of both Parties.

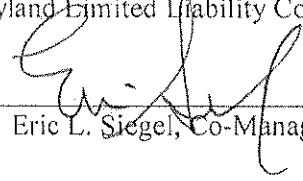
8. **Incorporation of MOU Provisions in PUD Order**

The Parties will ask the Zoning Commission (ZC) to incorporate each provision herein in an order concerning the subject property. Any provision not so incorporated by the ZC into an order concerning the subject property shall be fully enforceable between the Parties (Privately-Enforceable Provisions). Any disputes arising out of or related to Privately-Enforceable Provisions shall be decided by binding arbitration between the Parties in the District of Columbia pursuant to the rules of the American Arbitration Association. The Parties agree that they will comply with any arbitral decision within the time provided in the decision or, if no time for compliance is set therein, within 15 calendar days. The Parties agree that this Agreement is intended to benefit residents of the area within the jurisdiction of ANC 6B ("ANC Residents"); accordingly, the Parties agree that any such ANC Resident is to be considered a third-party beneficiary of this Agreement for the purposes of ensuring arbitral decisions arising out of or related to it (Arbitral Decisions) are enforced, and that any such ANC Resident may file suit in a Superior Court of the District of Columbia, or, if jurisdiction is otherwise proper there, in the United States District Court for the District of Columbia, to enforce an Arbitral Decision. Any ANC Resident who initiates suit to enforce an Arbitral Decision and who substantially prevails shall be entitled to an award of reasonable attorney fees. For avoidance of doubt, this Paragraph 13 shall not authorize lawsuits by residents of ANC 6B for any purpose other than enforcing an arbitral order in favor of ANC 6B.

1333 M STREET, S.E., LLC

a Maryland Limited Liability Company

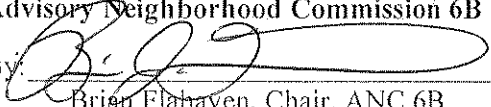
By: _____



Eric L. Siegel, Co-Manager

Advisory Neighborhood Commission 6B

By: _____



Brian Flahaven, Chair, ANC 6B

By: _____

By: _____

By: _____

Testimony to the Zoning Commission in Support of Z.C. Case No. 13-12
On behalf of ANC 6B by Commissioner Nichole Opkins, SMD 6B06

Thank you for the opportunity to testify before the Zoning Commission. My name is Nichole Opkins, ANC Commissioner for the Single Member District 6B06. On November 19, 2014, at a properly noticed meeting with a quorum present, this testimony was approved by ANC 6B. At that meeting, ANC 6B voted 5 to 0 to support approval of Z.C. Case No. 13-12.

ANC 6B/Community Outreach

The Applicant has cooperated fully with the ANC and other community stakeholders in connection with the PUD application. Several presentations on the project were made as follows:

- On April 3rd, 2014, the Applicant first presented the project to ANC 6B's Planning and Zoning Committee. After this presentation, the Committee established a subcommittee, with a singular focus on this project, to work more closely with the development team.
- On June 9th, the Applicant met with the subcommittee to address a number of community questions and present an update on the project design.
- On June 12th, the Applicant met with the Zoning Committee for the Capitol Hill Restoration Society.
- On November 5th, 2014, the Applicant presented the revised project design to the full ANC 6B Planning and Zoning Committee and discussed the terms of a proposed Memorandum of Understanding.

Memorandum of Understanding

With respect to the Memorandum of Understanding, the Applicant and ANC 6B have worked through four drafts and have reached mutually acceptable terms. The Memorandum of Understanding includes:

- restrictions on the use of the property,
- public space improvements and the timing for those improvements,
- requirements for affordable housing,
- transportation demand measures, and
- restrictions around construction activities.

The Memorandum of Understanding also states that its provisions must be incorporated into the Order adopted by the Zoning Commission.

Affordable Housing

In order to address ANC 6B's concerns about affordable housing options for families, the Applicant has agreed to reserve all of the two-bedroom units in Phase I of the project for households earning up to 60% of the area medium income. The remaining affordable units will be a mix of studio and one-bedroom units and will be reserved for households earning up to 80% of the area medium income.

Additional Project Benefits & Amenities

In addition to the affordable housing program, the PUD benefits and amenities package includes the following public improvements and design elements:

- Constructing the Anacostia Riverwalk Trail north of M Street,
- Re-paving M Street and installing permeable paver parking spaces and plantings,
- Constructing a public plaza, monumental stairs, and a wildflower meadow,
- Constructing a sidewalk north of Water Street along the property's edge,
- Constructing a dog park at 14th and M Streets,
- Constructing a water-wall feature for public viewing on Water Street, and

Including the affordable housing, the overall value of the project benefits and amenities is estimated in excess of \$4.1 million.

Design

While ANC 6B appreciates the improvements to certain aspects of the design through the many revisions to the project over the past year, we find overall the aesthetics presented at set down to be more inspired, interesting, and unique. We regret the dilution over time of the projects more interesting features, such as the color of the north façade and bay fenestrations. We ask that the Zoning Commission allow the developer to more fully realize the original architectural vision.

Conclusion

Based on the foregoing, on behalf of ANC 6B, I urge the Zoning Commission to approve Zoning Commission Case No. 13-12.