

Christine Moseley Shiker
202 457-7167
Christy.shiker@hklaw.com

July 6, 2007

VIA HAND DELIVERY

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

Re: Response to Memo from Office of Planning
ZC Case No. 02-17 – 5401 Western Avenue, NW PUD
Affordable Unit Type Definition Classification

Dear Members of the Commission:

This letter is submitted in response to the Memorandum from the Office of Planning dated June 29, 2007, seeking clarification from the Zoning Commission regarding the type of affordable units required by the Zoning Commission as part of the public benefit and amenities package included in the planned unit development ("PUD"). Condition No. 3 of the Order approving that case states as follows:

The Applicant shall provide affordable housing as described in Exhibit 223. To the extent that minor modifications are needed in the execution of the program to conform to District or Federal housing programs, the Applicant shall work with the DHCD to comply with the same.

Exhibit 223, the relevant portion of which is attached to the Office of Planning memorandum as Exhibit A, states that it was expected that the units would be approximately 900 – 930 square "saleable" square feet, would contain two bedrooms and would be located on the first floor above the ground level.

The developer of this project has been working with the Office of Planning for many months to resolve the issue of whether or not the proposed affordable units constitute two bedroom units as was anticipated. As set forth in the correspondence

ZONING COMMISSION
District of Columbia

CASE NO. 02-17 ZONING COMMISSION
District of Columbia
EXHIBIT NO. 240 CASE NO. 02-17
EXHIBIT NO. 240

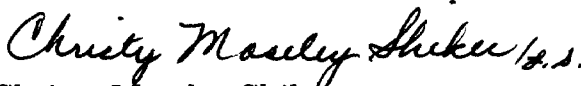
Zoning Commission for
District of Columbia
July 6, 2007
Page 2

to Art Rodgers at the Office of Planning, attached as Tab 1, it is the developer's position that both the exterior and interior bedrooms meet all natural light and ventilation requirements of the applicable building code for use as a bedroom. This is true whether the unit is a market-rate unit or an affordable unit. In fact, many of the identical units have been marketed and sold as two bedroom units at market-rate prices. Thus, the developer of the project asserts that the project is in compliance with the Zoning Commission's order for this PUD.

Furthermore, the Department of Consumer and Regulatory Affairs has issued a certificate of occupancy for this project, attached as Tab 2. Since the issuance of the certificate of occupancy, the size and design of the affordable units has not been modified. According to Section 3205.2 of the Zoning Regulations, each term and condition of the required covenant applying the Zoning Commission's order to the property is treated as a condition to the issuance of a building permit or certification of occupancy. Thus, the issuance of the certificate of occupancy on February 16, 2007, is evidence that the Zoning Administrator found the project to be in compliance with all zoning requirements at that time.

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,


Christy Moseley Shiker

cc: Jennifer Steingasser, Office of Planning (Via E-Mail)
Art Rodgers, Office of Planning (Via E-Mail)

January 12, 2007

VIA HAND DELIVERY

Art Rodgers
Office of Planning
District of Columbia
801 North Capitol Street, NE
Washington, DC 20001

**Re: Chase Point – Affordable Housing Units
5401 Western Avenue, NW**

Dear Mr. Rodgers:

This letter is to clarify an issue recently raised with respect to the affordable housing units being constructed at Chase Point pursuant to the Planned Unit Development approved by Zoning Commission Order 02-17 (the "Order"). Condition No. 3 of the Order states as follows:

The Applicant shall provide affordable housing as described in Exhibit 223. To the extent that minor modifications are needed in the execution of the program to conform to District or Federal housing programs, the Applicant shall work with the DHCD to comply with the same.

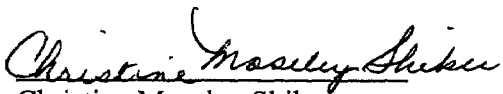
Exhibit 223, the relevant portion of which is attached as Exhibit A, states that it was expected that the units would be approximately 900 – 930 square "saleable" square feet, would contain two bedrooms and would be located on the first floor above the ground level. A question has been raised regarding whether the affordable units being offered at Chase Point contain two bedrooms because one bedroom has an exterior location and the second bedroom has an interior location. According to the letter from SK&I Architectural Design Group, LLC, attached as Exhibit B, the interior bedroom meets all natural light and ventilation requirements of the applicable building code for use as a bedroom. Therefore, the requirements for a two-bedroom unit for each affordable housing unit is satisfied.

Mr. Art Rodgers
Office of Planning
January 12, 2007
Page 2

We appreciate your help in this matter and look forward to resolving this outstanding issue. Should you have any questions or need additional information, please do not hesitate to call me at (202) 457-7167.

Sincerely,

HOLLAND & KNIGHT LLP

By: 
Christine Moseley Shiker

Enclosures

cc: Al Hedin, PN Hoffman (Via UPS Overnight; w/enclosures)
Steven E. Sher, Director of Zoning and Land Use Services (w/enclosures)

4293306_v1

5401 Western Avenue, N.W.
Washington, D.C.
Summary of Affordable Housing Program
Revised March 24, 2003
with Refinements to the Monitoring and Enforcement Mechanisms

Monitoring and enforcement mechanisms in addition to the Applicant's January 6, 2003, submission underlined.

- Size:** Applicant has committed to provide 5% of the FAR approved for the residential building in excess of the matter of right development, or 5,514 gross square feet (5% of 103,088 FAR square feet representing the difference between the requested 182,000 FAR square feet less 79,912 matter-of-right FAR square feet).
- Unit Configuration:** The size and configuration of the units shall be determined in the final floor plan for the Project. It is expected that the units will be approximately 900 – 930 “saleable” square feet, contain two bedrooms and will be located on the first floor above the “ground” level.
- Initial Unit Price:** The final contract price of an affordable unit will be determined by the District government consistent with the average affordable housing analysis for four person households as illustrated on Exhibit A.
- Certification of Eligibility:** Eligible buyers – for both initial purchases and for resale - are defined as those households that meet the following criteria:
- Having household income not exceeding the “low income” limit by household size allowed by the U.S. Department of Housing and Urban Development for the Section 8 Program, or the appropriate successor program, for the Washington, D.C. Metropolitan Statistical Area (attached is a copy of the Fiscal Year 2002 Income Limits Summary);
 - Purchasing their primary residence;
 - Have no ownership interest in any other housing;
 - Commit to continuous owner occupancy; and
 - Purchasers must also qualify for the necessary home mortgage and fund the required down payment.

Potential homebuyers can be certified for income-eligibility by making application to the home purchase assistance programs of the Department of Housing and Community Development (DHCD).

Certification shall make households eligible for selection by lottery (see below).

Selection of Buyers:

Applicant shall hold a lottery of all qualified families to be selected as the Initial Unit Purchasers. Applicant will provide notice of the lottery through advertisements in local newspapers and other vehicles reasonable to ensure broad exposure to potentially eligible purchasers. The Department of Housing and Community Development will also advise existing applicants to its home purchase assistance programs of this affordable housing opportunity. The Initial Unit Purchasers and the Initial Unit Price shall be determined by the District government in consultation with the Applicant six months prior to the projected completion of the Affordable Units.

**Restriction on Sale
Affordable Units:**

The Affordable Units will be restricted through a deed restriction, covenant and/or other legal means in their resale for a period of 20 years to: (1) income-eligible homebuyers, a list of whom may be obtained from the Department of Housing and Community Development's applicant pool for home purchase assistance programs; (2) a maximum Purchase Price equal to the Initial Unit Price plus the cumulative change in the consumer price index and the cost of permanent improvements to the Unit; and (3) Sale within a given 20 year affordability restriction period shall create a new 20 year affordability restriction period.

**Sale After Restriction
Period:**

Upon the expiration of the 20-year restricted selling period, the then current owner of the Unit may sell the Unit without restriction but the sales proceeds shall be allocated as follows:

First, to the seller in the amount of their original sales price plus the cumulative change in the consumer price

index, the cost of permanent improvements to the Unit, the closing costs paid by the seller at their closing and a reasonable sales commission.

The remainder shall be split equally between the seller and a District of Columbia government fund dedicated to the provision of affordable housing.

Monitoring and Enforcement¹:

Restrictive covenants shall be active until the affordable housing trust fund receives the appropriate contribution from the sale of a unit.

The District government shall retain all rights to enforce the provisions of the affordability covenants, according to the provisions of this document or such enforcement mechanisms as the District government may deem appropriate. The District government shall have the right to recapture any enforcement costs.

Changes to Procedures After Initial Sale of Units:

The substance of any of the above Clauses that are included in deed restriction terms may not be modified without the consent of both the unit owner(s) and the District government. Administrative, monitoring and enforcement mechanisms not included in deed restrictions may be modified at the sole discretion of the District government.

¹ The District Department of Housing and Community Development has committed to monitor and enforce the affordability of the units. The Applicant's understanding is that this will be addressed by the Office of Planning in its report.



Architectural Design Group

January 11, 2007

Mr. Al Hedin
Senior Vice President of Development
PN Hoffman, Inc.
4725 Wisconsin Avenue, NW
Suite 200
Washington, DC 20016

Via: Fax and Mail

RE: Chase Point
SK&I Job No.: HOF.09

Dear Al:

In the affordable units (units 103, 107, 108, 110, 111) for the above referenced project, there are interior rooms which were designed as a Den or Bed Room. The Project is designed under 1996 BOCA with 2004 DC Amendments (Code). The interior rooms are in compliance of the Code for natural light and ventilation requirements.

Lighting: Code Section 1206.2 and 1206.2.1 states the natural light requirements. Per the requirements, exterior glazing area provided is more than 8 percent of the floor area and unobstructed opening to adjoining room is 35 square feet which is more than required 25 square feet minimum.

Ventilation: Code Sections 1208.2. and 1208.2.1 states the natural ventilation requirements. Per the requirements, exterior openable area of the glazing provided is more than 4 percent of the floor area to be ventilated and unobstructed opening to adjoining room is 35 square feet which is more than required 25 square feet minimum. In addition, mechanical ventilation has been provided.

If you have any questions, please call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meral Iskir', written over a white background.

Meral Iskir, AIA
Executive Vice President

Cc: Jeremy Lena
Rod Gamby

SK&I ARCHITECTURAL
DESIGN GROUP, LLC
7735 Old Georgetown Rd., Suite 1000
Bethesda, Maryland 20814
301.554.9700 (301.554.7211)
www.skiaarch.com

G:\HOF09-Western Avel\Correst\Owner\2007-01-11_Al Hedin DenBedrmVent.doc

EXHIBIT B

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.

CO 137624

THIS PERMIT IS VALID ONLY FOR THE PREMISES
 OF THE PROJECT ADDRESS

DATE : 2/16/2007

ADDRESS: 5401 WESTERN AVE NW	FLOOR(S): 1ST THRU 8TH FLOORS	PRCLID : 1663 <small>(square)</small>	-0000-	0805 <small>(lot)</small>
		WARD : 3	ZONE : R5B	


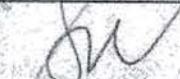
PERMISSION IS HEREBY GRANTED TO: CORPORATION : P.N. HOFFMAN, INC. ID No.: 662330	TRADING AS: P.N. HOFFMAN, INC.
--	--

APPROVED USES : APARTMENT BUILDING	PREVIOUS USES : OTHER - SEE DESCRIPTION
--	---

TYPE : CHANGE OF OWNERSHIP	BZA NO. :	OCCUPIED SQ. FOOTAGE: 172,465	OCCUP. LOAD: 107	EXPIRATION DATE: NONE
--------------------------------------	-----------	---	----------------------------	---------------------------------

DESCRIPTION OF USE: G1-G3(PARKING)PART OF 1ST FL. PRIVATE GYM AND MEETING ROOM. APARTMENT 107 UNITS. 12 UNITS ON 1ST FLOOR. 95 UNITS 2ND THROUGH 8TH FLOORS.	FEE : \$599.00
--	------------------------------

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

Interim Director  Lisa M Morgan	PERMIT CLERK: ADEMOLA SHITTU 
---	---

