

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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Office of the Director

MEMORANDUM

ZONING COMMISSION
District of Columbia

TO: D.C. Zoning Commission

FROM: Harriet Tregoning, Director *HTS*

SUBJECT: Affordable Unit Type Definition Clarification
Zoning Commission Case No. 02- 17PUD 5401 Western Avenue, NW

DATE: June 29, 2007

CASE NO. 02-17
EXHIBIT NO. 239

The Office of Planning (OP) is seeking clarification from the Zoning Commission regarding the type of affordable units required by the Commission as part of the public benefits and amenities package included in the Planned Unit Development (PUD).

The PUD exhibit (see attached) states the developer will set aside affordable two-bedroom units between 900 to 930 "saleable" or net square feet each, totaling 5,514 gross square feet. This equates to five units. The units were to be made affordable to households with incomes not exceeding the HUD Section 8 "Low Income" limit and priced based on the occupancy assumption of a four-person household. The 2007 HUD Section 8 "Low Income" limit for a four-person household is \$60,000 for the Washington Metropolitan Region.

At issue is the type of unit and the necessary occupancy assumptions to price the unit. The developer has set aside units that would commonly be called one-bedrooms plus den. The den is a room without windows. The developer contends that the windowless room meets the light and air requirements of a sleeping room, as defined by the building code, because the room's door is wide enough for light and air and supplemented by the HVAC system. Further, the developer cites that the building code provides exceptions for buildings with automatic sprinkler systems from having to provide exterior windows for emergency egress. They therefore contend that the units should be priced with an occupancy assumption of a four-person household.

In consultation with Leslie Steen, the Housing Chief for the District of Columbia, OP recommends the units should be priced at a two-person household under HUD's Section 8 Low-Income definition of \$48,000. Below are estimates of the difference in prices based on the two occupancy assumptions.

	2-Person Household	4-Person Household
Income	\$48,000	\$60,000
Purchase Price	\$140,330	\$184,350

ZONING COMMISSION
District of Columbia
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EXHIBIT NO.239

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.