

2012 FEB 5 PM 2:45

Allison C. Prince  
aprice@goulstonstorrs.com  
202-721-1106

Christine A. Roddy  
croddy@goulstonstorrs.com  
202-721-1116

February 6, 2012

Anthony Hood, Chairperson  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street, NW  
Suite 210-S  
Washington, DC 20001

Re: Zoning Commission Case No. 04-14B: Supplemental Information

Dear Chairperson Hood and Members of the Commission:

Florida Rock and MRP would like to take this opportunity to clarify some of the issues the Commission raised at the public meeting on January 30, 2012. We can appreciate the Commission's concern regarding the modifications to this application given the amount of time the Commission, the Office of Planning, the community, and the Applicant have dedicated to this project in the past. We recognize now that the initial filing may not have explained in enough detail the process we are proposing for reviewing only the First Phase as a consolidated PUD and the remaining phases as First Stage PUDs. We also understand that the plans we submitted may not have conveyed the project accurately. To that end, we hope the information provided herein offers sufficient assurances with respect to the items listed below to warrant setting the application down for a public hearing. We do believe the proposed project preserves many of the positive attributes of the former PUD and strengthens them through an improved site plan, landscaping plan and by providing preferred uses. We hope the enclosed information helps to better depict this.

- Rationale for filing application as a modification rather than filing application as a new PUD;
- Comparison between approved PUD plans and proposed PUD plans;
- Details regarding First Phase design;
- Information regarding the proposed level of retail; and
- Confirmation that the LEED requirements are not being reduced.

ZONING COMMISSION  
District of Columbia

CASE NO. 04-14B

---

## **Procedural Strategy**

The Commission voiced concern that the Applicant filed the application as a modification rather than as a new PUD and we appreciate the opportunity to explain the rationale for filing it as such. We chose to proceed with a modification because (1) the Applicant has already made a significant payment on the benefits and amenities package approved in connection with the original PUD; (2) the primary changes to the PUD are design related and do not undermine the backbone of the original PUD, such as the site plan, landscaping and framing of important views and vistas; (3) this strategy preserves the Commission's review authority for the future phases and allows the design for those phases to be finalized at a time closer to their development, making the designs more relevant than those that have already been approved, and (4) there is a PUD covenant recorded against the property requiring development of the site to be consistent with a previously approved PUD.

One of the primary reasons the Applicant filed the application as a modification is because Florida Rock has already paid \$800,000 to the development of Diamond Teague Park, which was a proffer in its benefits and amenities package. This was a significant investment in the PUD and was a primary component of the benefits and amenities package of the original PUD. The Applicant made the contribution as a good faith showing of its commitment to the project and would like the benefit of having made this gesture.

Further support for filing this as a modification is that the foundation of the PUD is not changing: the four-building site plan remains roughly the same. The views and vistas that were created in the original PUD remain in the proposed PUD and the heavily landscaped waterfront also remains in place. There are changes in the design of each of these components; however, we truly believe that the proposed design strengthens each of these attributes of the original plan.

Moving forward in this way preserves the Commission's ability to review the designs for the final three phases of development when a Second Stage PUD application is filed in the future. The Applicant is ready to move forward immediately with Phase One but given the contingencies that must be confirmed before development of the final phases, the Applicant thought it appropriate to proceed with only First Stage review for those phases at this time. Since the Commission will only approve the massing of those three phases in connection with this application, the Commission will have an opportunity to weigh in on the design of those buildings at a more relevant time.

Finally, there is a technical reason as to why the application was filed as a modification. Order No. 910 required that a PUD Covenant be recorded in the land records that would limit all

---

future development on the property to the development approved in Case No. 98-17F.<sup>1</sup> Even matter-of-right development is not permitted on the property. Specifically, the Covenant states “[t]he Subject Site will be developed and used in accordance with the plans approved by said Order and in accordance with the conditions and restrictions contained in said Order, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia may authorize.” (Document No. 2001007599, recorded in the District of Columbia Land Records on January 25, 2001.) Accordingly, we filed the application as a modification in order for it to be considered a “change” to Order No. 910 approved by the Commission and thereby allowed by the restrictions recorded in the land records.

### **Comparison of Original PUD and Proposed PUD**

In an effort to depict the preservation of the core components of the original PUD mentioned above, we have attached the plans approved in Case No. 04-14 as Exhibit A.

### **Details of First Phase of Development**

Attached as Exhibit B, are plans that better depict the design vision of the First Phase. These details were not captured in the plans initially submitted and we believe that these precedents demonstrate more accurately what the Applicant is proposing for the First Phase of development. We will continue to refine the design and materials prior to the public hearing should this application be set down.

### **Retail**

The Applicant heard the Commission’s concerns regarding the amount of retail proposed for the project. Attached as Exhibit C is an analysis of retail proposed for the Capitol Riverfront Business Improvement District as well as details regarding a modification to increase the amount of retail proposed with the project. MRP and Florida Rock are committed to providing retail at the site but want to ensure that it is successful. The Applicant’s goal is to animate the ground level and if it can’t do it through retail, which is its preference, it seeks the flexibility to animate the space temporarily through accessory residential uses.

---

<sup>1</sup> Case No. 98-17F was the initial Second Stage PUD application approved by the Commission. The Second Stage approval ultimately lapsed, but the Commission extended the First Stage PUD. The PUD Covenant, however, remains recorded against the property.

---

**LEED Standards**

The Applicant is not proposing to reduce the sustainability standards of the project and remains committed to meeting the same level of LEED requirements as the original PUD. The Applicant was simply proposing to be LEED “certifiable” rather than LEED certified.<sup>2</sup>

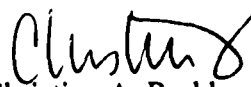
**Conclusion**

Florida Rock and MRP hope that this information alleviates some of the concern that was evident at the initial set down meeting for this case. We look forward to hearing the Commission’s comments on this application at the public meeting on February 13, 2012.

Sincerely,



Allison C. Prince



Christine A. Roddy

---

<sup>2</sup> The terms of the Green Building Act have since become effective, which may make this distinction moot.

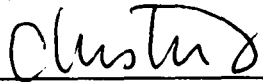
---

Certificate of Service

A complete copy of the foregoing document was forwarded to the following addresses on February 6, 2012 by first class mail or hand delivery.

Karen Thomas  
Office of Planning  
100 4<sup>th</sup> Street, SW  
Suite E-650  
Washington, DC 20024

Advisory Neighborhood Commission 6D  
1101 4th Street, SW  
Suite W 130  
Washington, DC 20024

  
\_\_\_\_\_  
Christine Roddy