

April 15, 2019

VIA IZIS AND HAND DELIVERY

Anthony Hood, Chairman  
District of Columbia Zoning Commission  
441 4<sup>th</sup> Street, NW  
Suite 200-S  
Washington, DC 20001

**Re: Z.C. Case No. 17-21 – Application of As You Like It LLC for Approval of a Consolidated Planned Unit Development and Zoning Map Amendment for Lot 52 in Square 498 (the “Property”) – Applicant’s Posthearing Submission**

Dear Chairman Hood and Members of the Commission:

Enclosed please find the Applicant’s responses to the issues raised at the March 28, 2019 public hearing.

**Amidon-Bowen Parent-Teacher Association**

Following the hearing, the Applicant and PTA met again to discuss the Project. Based on these discussions, the parties have entered into the attached Memorandum of Understanding (“PTA MOU”), which is attached as Exhibit A. Among other measures, the PTA MOU:

- Confirms the proposed public benefit for the PTA, which is \$50,000 in funding for after-school programs and facility improvements at the school. The funding will be provided directly to the PTA, and evidence that the funds have been or are being used will be provided to the Zoning Administrator to confirm the benefit is being provided.
- Identifies the location for a potential mural on the Annex building. The location is identified on the drawings included in Exhibit B. (The PTA has agreed to be responsible for providing the mural itself.)
- Identifies additional commitments regarding building design and operations to address PTA concerns regarding the impact of the Project’s uses on the adjacent school properties.
- Identifies additional construction management provisions intended to address school concerns about construction impacts.

The Applicant's traffic consultant has also provided the PTA and ANC 6D with suggested signage types and locations that may be acceptable to DDOT and also address PTA and ANC concerns about current curbside use and speed limit notice on I Street in front of the school.

The Applicant met with Mr. Welles on April 11 at the Property to discuss the terms of agreement with the PTA and get further input regarding his issues of concern. Welles requested that the Applicant agree to specific details regarding the relocation of the light pole and provide maintenance access. Welles also requested that the Applicant agree to restore the portion of the School property near the Annex that would become useable when the fence was relocated. The Applicant agreed to these conditions and incorporated the terms into the Addendum to the Construction Management Plan that is included as a part of the PTA MOU.

### **Building Design**

Included in Exhibit B are the drawings requested by the Commission, which shows the view of the Project along the private driveway on the north end of the Property. The view demonstrates the significant amount of distance between the Project and the townhouses to the north (including the residence of the Gomers). The separation is significantly greater than what would be required by right for a townhouse.

Following the hearing, the Applicant reach out to the Gomers by phone, in person, and by e-mail. A copy of the above plans was provided to the couple for their review and consideration. The Applicant met with Ms. Gomer to review the plans and discuss outstanding concerns. The Applicant was able to clarify the amount of distance between the Project and the Gomers' residence. The Applicant also notes that, with the removal of the habitable units in the penthouse, there will no longer be any units that look down toward the Gomers' 4<sup>th</sup> floor terrace.

Also included in Exhibit B are updated renderings and elevations reflecting the selection of a darker metal panel for the penthouse.

### **Affordable Housing Location**

As discussed at the hearing, the Applicant revised its Project prior to the hearing to incorporate three-bedroom units into the Project at the request of OP, ANC 6D, the PTA, and UNSW. Furthermore, the Applicant agreed to make all of the three-bedroom units affordable.

The Applicant initially contemplated placing the three-bedroom affordable units in the ground-floor walkout component of the building. However, from a design perspective this would not work, because it would halve the number of ground-level entrances and destroy the "townhouse rhythm" that is essential to the design concept. Therefore, the Applicant worked with its architect to evaluate the existing building program and identify locations where existing unit demising could be reconfigured with minimal changes to the exterior design. The northeast corner was identified

as the best location where three-bedroom units could be accommodated in a single tier, without any at-risk windows. Therefore, this unit type was converted to a three-bedroom unit. Consistent with the Applicant's commitment to make all three-bedroom units in the Project affordable, all three units were designated as affordable.<sup>1</sup>

The proposed location is an appropriate location for affordable units. It is a quiet corner of the building, away from public streets and facing the private driveway to the north and the playground and soccer field to the east. Although it is located near the loading area, the upper stories of the building overhang the private driveway and loading entrance, so the units will not "look down" on the immediate loading area. Furthermore, the Project will have limited loading and service needs given its mix of uses (among other reasons, condominium buildings have much lower degrees of move-in/move-out activity compared to an apartment, and STC has agreed to locate its costume shop loading within the garage), and the Applicant has agreed to significant limitations on trash and loading operations as a part of its discussions with UNSW. Those mitigation measures, aimed at reducing impacts on the residences on the north side of the private drive also serve to benefit the Project's residents on the south side of the private drive.

### **Public Benefits**

As requested by the Commission and OP, attached as Exhibit C is a summary of the primary public benefits, project amenities, and proffers associated with the Project, along with an estimated value for certain major public benefits arising from the Project. The total value of the primary benefits is over **\$2.4 million**. Estimates for the value of other amenities and benefits, such as the public art, affordable housing, streetscape, and sustainability features of the Project have not been included in this total.

### **Email from "DC for Reasonable Development"**

The Applicant has reviewed the one-page email from "DC for Reasonable Development". The email is signed by Chris Otten, who claims to be submitting the comments on behalf of the "DC for Reasonable Development: Ward 6 Study Group" and the "SW Accountability Group." The email lacks any evidence that Mr. Otten is filing the email on behalf of anyone other than Mr. Otten. As the Commission is well aware, the Ward 6 Study Group / SW Accountability Group has appeared directly in a number of recent planned unit development cases in Southwest, including most recently two months ago in Case 02-38J.<sup>2</sup> In all of these cases the group

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<sup>1</sup> Unit types are typically stacked within a residential building for efficiency purposes, so that mechanical, electrical, and plumbing stacks can run vertically from unit to unit. Therefore, once the Applicant committed to locate the three-bedroom units within the building's upper floors, they would necessarily be stacked to maintain this standard design efficiency.

<sup>2</sup> Other cases include Phase 2 of The Wharf (Z.C. Case No. 11-03J), Randall School modification (Z.C. Case No. 07-13G), and the Waterfront Station M Street parcels (Z.C. Case No. 02-38I).

submitted written testimony signed by its members and raising comments that at least superficially addressed the substance of the case. There is no evidence in the record to support Mr. Otten's claim that either the "Ward 6 Study Group" or "SW Accountability Group" actually oppose this application or authorized Mr. Otten to represent the same.

Mr. Otten's email lacks any substantive allegation regarding the Project. All he does is recite language from the Zoning Enabling Act stating the purpose of the Zoning Regulations, make a generalized assertion of injury and lack of process, and list a handful of Comprehensive Plan provisions. As the Commission heard in detail at the public hearing, many individuals and organizations devoted countless time – years in some cases – to detailed and sustained engagement regarding the Project, which yielded specific and meaningful revisions to the Project uses, design, benefits, mitigation measures, and other features, including detailed agreements with the immediately affected neighbors surrounding the Project. As the Commission also heard, the Office of Planning and other agencies were engaged in the process and actively participated, culminating in a 31-page OP report and an 18-page DDOT report each providing a thorough review and recommendations regarding the Project.<sup>3</sup>

### **Conclusion**

Also attached as Exhibit D is the Applicant's draft Findings of Fact and Conclusions of Law. Please feel free to contact Dave at (202) 721-1137 or Meghan at (202) 721-1138 if you have any questions regarding the enclosed. We look forward to the Commission's deliberation at the April 29, 2019 public meeting.

Sincerely,



David M. Avitabile



Meghan Hottel-Cox

Enclosure  
DA:mhc

cc: Gail Fast, ANC 6D01  
Anna Forgie, ANC 6D02  
Ronald Collins, ANC 6D03  
Andy Litsky, ANC 6D04

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<sup>3</sup> As the record also reflects, OP opposed a previous version of the Project as inconsistent with the Comprehensive Plan. OP's extensive review and engagement is clear.

Anthony Dale, ANC 6D05  
Rhonda N. Hamilton, ANC 6D06  
Edward Daniels, ANC 6D07  
Melinda MacCall, DC Public Library, Southwest Neighborhood Library

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## Certificate of Service

The undersigned hereby certifies that copies of the foregoing document will be delivered by first-class mail or hand delivery to the following addresses on April 15, 2019.

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