

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR



December 22, 2011

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington D.C. 20006

Re: Art Place PUD - Building 'A' - Affordable Housing Units

Dear Mr. Sher:

This is to confirm the substance of our discussion on Wednesday, November 9, 2011, concerning the development of the above-referenced property. The Art Place project is located on the west side of South Dakota Avenue, N.E., in the vicinity of the Fort Totten Metrorail station. The project consists of a multi-phase project including residential, retail, arts and civic uses.

The property is the subject of a planned unit development (PUD) under which the properties are zoned C-2-B and FT/C-2-B. By ZC Order No. 06-10, dated December 14, 2009, effective January 15, 2010, the Zoning Commission approved a preliminary PUD for the entire site and granted consolidated approval to the first phase, known as Building A. Building A is located in the block bounded by South Dakota Avenue, Galloway Street and the relocated Ingraham Street.

As part of the PUD, the project includes an affordable housing component. Condition No. 8 of Order No. 06-10 provides that:

The Applicant shall provide not fewer than 171 income- and age-restricted residential rental units pursuant to the development standards set forth at Exhibit C of the Applicant's September 18, 2009, supplemental filing, included as Exhibit 70 of the record.

Exhibit C is entitled "Affordable Housing Commitments and Standards," revised September 1, 2009 (the "Standards.") A copy is attached to this letter.

The Zoning Regulations now include provisions requiring that affordable housing be provided as part of new residential developments containing 10 or more dwelling units. See 11 DCMR, Chapter 26, Inclusionary Zoning, §2602. Pursuant to §2608.2, the IZ regulations do "not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008." The subject application was filed in 2006 but was not set down for hearing until February 9, 2009. The

Commission's order makes no reference to IZ or whether or how Chapter 26 is to apply to the subject development. However, the affordable housing standards which are specifically identified in Condition No. 8, cited above, are more restrictive than IZ in terms of the amount of space (number of units) to be provided and with respect to the income levels of the prospective tenants (compared to the Area Median Income). Accordingly, I conclude that the specific condition of the PUD approval will control the affordable housing to be provided in the project, rather than the more general terms of Chapter 26 and that the property is not subject to IZ.

With respect to the issues you raised with me, the Standards provide as follows:

Unit types: The mixture of Affordable Unit types will be comparable to the mixture of market rate unit types: a predominance of one-bedrooms and efficiencies along with two-bedroom and three-bedroom units.

Unit Sizes: Gross square footage of Affordable Units will be comparable to that of market rate units.

Unit Distribution: Of the 171 Affordable Units, 141 units will be provided in Building A and 30 units will be provided in Building C.

Affordable Units will be reasonably distributed vertically and horizontally throughout Building A, as generally represented at Sheet 2.00g of the Applicant's architectural drawings dated September 16, 2009.

Those 98 Affordable Units in Building A reserved for seniors (aged 62+ years) will be located on residential floors 1-4, as generally represented at Sheet 2.00g of the Applicant's architectural drawings dated September 16, 2009.

Sheet 2.00g of the approved plans shows a layout of the affordable senior housing units. The units were shown as arranged on two corridors of the northern portion of Building A, on floors 1 through 4. The design as it has evolved would have the two corridors for affordable units located flanking the elevator bank which would serve the senior units. A copy of the proposed unit distribution is also attached. The units would further be extended to include corridors on the 5th and 6th floors as well. The units would be stacked in tiers of like unit types, to facilitate plumbing stacks, chases and utilities.

Condition No. 21 of the Order gives flexibility to the applicant to "vary the location and design of all interior components ..." The vertical and horizontal distribution is to be "as generally represented on Sheet 2.00g." There is a note on Sheet 2.00g which states: "the designation of units for the senior housing and non senior affordable housing is schematic and intended to show general distribution. Final locations will be determined upon further dwelling unit layout study as part of the final design." Taking all these provisions together, I conclude that the horizontal and vertical distribution of units as shown on the attached plans is consistent with the requirements of Order No. 06-10.

With regard to the mixture of unit types, you presented to me a chart showing the mixture of unit types, as follows:

	<u>Efficiency</u>	<u>1 Bedroom</u>	<u>2 Bedrooms</u>
Market rate units	30	167	179
percent	7.98%	44.41%	47.61%
Affordable units	0	49	92
percent	0.00%	34.75%	65.25%

None of the affordable units will be efficiencies and there are no three bedroom units at all. The distribution of affordable units is comparable to the mix of market rate units; if anything, the affordable units are skewed in the direction of more two-bedroom units. I conclude that this distribution complies with the requirements of Order No. 06-10, as set forth in the Standards.

With regard to the size of units, you provided information to me that the average unit size of all market rate units is 761 square feet and the average unit size of all affordable units is 772 square feet. Accordingly, I conclude that the square foot age of affordable units is comparable to that of market rate units, as required by the Standards.

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments