

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



December 22, 2011

Mr. William Bensten
The Merion Group
928 Mackall Avenue
McLean, VA 22101

Re: Zoning Commission Orders No. 06-34/06-34A, 1705-1729 East Capitol Street, SE Square 1096, Lot 75 (former Lots 51, 52, 53, 54, and 55) (the "Property")

Mr. Bensten:

This letter will confirm the substance of our conversation of October 12, 2011, concerning the above-referenced Property. For reference, the Property is located in Square 1096, which is bounded to the north by East Capitol Street, to the east by 18th Street, SE, to the west by 17th Street, SE, and to the south by A Street, SE.

In the course of our meeting, we discussed a number of minor refinements you propose to the concept drawings that were approved by the Zoning Commission as part of the planned unit development (PUD) for the Property, pursuant to Zoning Commission Orders No. 06-34 and 06-34A (collectively, the PUD Order). It is my understanding that you are seeking confirmation from the Zoning Administrator that these refinements either are consistent with the PUD Order or are approved minor modifications to the PUD Order pursuant to the authority granted to the Zoning Administrator pursuant to 11 DCMR § 2409.6, all in order to allow you to proceed with construction drawings required as part of the construction permitting process.

Based upon my review of the PUD Order, included the drawings approved therein, and the refined drawings presented in the course of our meeting and attached hereto, it is my determination that the refinements are consistent with the PUD Order or are approved as minor modifications pursuant to the authority granted to me under 11 DCMR § 2409.6, specifically:

- The window wells identified in the Cellar Floor Plan (Sheet A102 dated September 9, 2011), which such window wells do not serve as area ways and are not accessible by door egress from the adjacent residential units shall not be calculated so as to disqualify this level of the project, or any part thereof, from cellar space. As a result, any of the floor area attributable to this cellar floor level shall not be calculated as part of the gross floor area of the approved project. With respect to the location and size of the window wells, you have also advised of certain slight reconfigurations of these wells to better

accommodate the refined residential layout for the project and further confirmed for me that the overall square footage of window wells in the refined plans is not greater than was originally approved by the Zoning Commission as part of the PUD Order. Based upon these assumptions, it is my determination that the proposed relocations and reconfigurations are acceptable under the PUD Order.

- We discussed that the Zoning Commission originally approved a residential project containing 133 units under the PUD Order, which approval was later modified by the Commission to approve 141 residential units. As part of your further refinement of the drawings, you have advised that an additional residential unit can be accommodated without increase to the approved building envelope and without change to the building design. Pursuant to my authority set forth under 11 DCMR § 2409.6, I determine that the requested additional one residential unit is approved as consistent with the intent of the Commission in approving the PUD, for a new total of 142 dwelling units.
- We further discussed that a building height of 49.9 feet was approved by the Zoning Commission pursuant to the PUD Order. Under the PUD Development standards applicable to R-5-B zoned properties, set forth in 11 DCMR § 2405.1, a maximum height of 60 feet is permissible. You have advised that a *de minimis* increase over the approved 49.9 feet is needed in order to account for certain construction standard building dimensions and to avoid the additional construction expense of customizing the structural framework for this wood-frame-on-plinth project, a consideration that was not recognized at the concept level for the drawings. It is my determination, pursuant to 11 DCMR § 2409.6(a) that a deviation of the approved building height is granted so long as such additional height does not exceed two (2) percent of the approved 49.9 feet height, or 50.9 feet.
- You identified a minor inconsistency in the drawings approved by the Zoning Commission as part of its modification approval in Order No. 06-34A. In the revised Fourth Floor Plan drawings approved by the Commission, each of the four units located in the courtyards of the project are identified as having enclosed bay windows, however, no consistent updated elevation was included as part of the approval. You have now presented an updated elevation drawing reflecting the four enclosed bays at the Fourth Level (along with additional enclosed bays located in public space along the front of the building). In light of the Zoning Commission's approval of Order No 06-34A, including the language inserted in Condition 1 of said order specifically noting that the Commission's modification approval includes approval of the supplemental drawings that identify the enclosed bays on the Fourth Level, it is my determination that the drawings reflecting the enclosed bay windows is consistent with the PUD Order.
- Finally, you identified certain minor changes to the building elevations made as part of the refinement of the drawings for the PUD, from concept to construction-level. Specifically, you identified a change in the fenestration pattern showing on the rear/alley elevation of the building. You have advised that this change to the fenestration pattern is

being made in order to comply with applicable provisions of the District of Columbia Construction Codes pertain to fire suppression. It is my determination that such refinement, made in compliance with the Construction Code, is consistent with the PUD Order and approved, consistent with Condition No. 7(d) of Order No. 06-34.

I trust that this letter accurately reflects the issues addressed in our conversation. Please let me know if you have any further questions.

Sincerely, 

Matthew Le Grant
Zoning Administrator

cc: Sharon Schellin, Secretary to the Zoning Commission