



**TO:** District of Columbia Zoning Commission

**FROM:** *JL for* Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

**DATE:** June 30, 2016

**SUBJECT:** Preliminary Report – ZC 16-04 – Consolidated PUD and Related Map Amendment at 501 I Street, S.W., Square 498, Lot 52

## I. OFFICE OF PLANNING PRELIMINARY RECOMMENDATION

The Office of Planning (OP) **does not recommend the case be set down for a public hearing.** The proposed PUD is inconsistent with the Comprehensive Plan, with respect to both use and density. It is also inconsistent with the Southwest Small Area Plan approved by the Council of the District of Columbia in July, 2015.



**Figure 1. Proposed Consolidated PUD' Location, and Nearby Zoning and Developments**

OP recognizes the Shakespeare Theater Company (STC) is a vital component of the District's cultural life and remains committed to working with STC and residents on accommodating STC's needs within the District. However, the Office of Planning had numerous meetings with the applicant prior to their filing the application, and other meetings following the filing. At these meetings, OP explained why an application for a medium-high density development would not be consistent with the Comprehensive Plan, and could not be recommended for set down. OP encourages STC to continue dialogue about land use designations for this site through the

Comprehensive Plan review process, as recommended in the Southwest Neighborhood Small Area Plan.

## II. APPLICATION SUMMARY

The application by The Bard is a joint venture between the Erkiletian Development Company and the Shakespeare Theatre, LLC (STC). The applicant proposes to construct a 4.09 FAR mixed-use residential and cultural building at the northeast corner of 5<sup>th</sup> and I Streets, SW. The building would have four wings: A 73'2" / 7-story section at the corner of 5<sup>th</sup> and I Streets; a 62'4" / 6-story central section; and two 41'11" / 4-story wings flanking the central section.

The development proposed on the now-cleared site of the former Southeastern University would include space for theatre uses on the below grade and first floor levels, and approximately 136 residential units. Residential uses are proposed to include approximately 93 market rate residences and 9 Inclusionary Zoning (IZ) units on floors 2 -7 of the main building-block, and 34 units for STC visiting Fellows and actors, primarily in a four-story wing on the northeastern portion of the site.

The proposed development would be 2.29 FAR more dense and 33 feet taller than what is permitted by the site's current R-3 zone. The applicant has requested a PUD-related map amendment from R-3 (moderate density residential) to SP-2 (medium-high density). Variance flexibility has also been requested for court dimensions, loading, and penthouse setbacks. Special exception flexibility has been requested to include non-profit office uses in the SP-2 development.

## III. COMPREHENSIVE PLAN ANALYSIS

The proposed PUD is inconsistent with the Comprehensive Plan, with respect to both use and density. It is also inconsistent with the Southwest Small Area Plan approved by the Council of the District of Columbia in July, 2015.



Figure 2. Comprehensive Plan Future Land Use Map



**Figure 3. Comprehensive Plan Policy Map**

### *FLUM and Policy Maps*

The Comprehensive Plan's Future Land Use Map (FLUM) designates the site as appropriate for institutional use, reflecting its 50-year use for educational purposes in a purpose-built two-story building that was recently demolished. The FLUM designates the remainder of Square 498, in which the property is located, and the area on the west side of 6<sup>th</sup> Street across from the applicant's site as appropriate for moderate-density residential uses and local public facilities.

The existing R-3 zoned row houses north and west of the site, the east-adjacent R-3 zoned Amidon-Bowen elementary school and playground and the R-5-B zoned 3-story apartment building in the center of Square 498 are consistent with the FLUM designation. Only on the southwest corner of 6<sup>th</sup> and I Streets, where there is a 90-foot tall apartment building, does the FLUM show high-density residential use as appropriate.

The Comprehensive Plan's Generalized Policy Map shows these nearby locations as either Neighborhood Conservation Areas or as Parks. However, like the FLUM, the Policy Map designates the applicant's site as appropriate for institutional use. The Comprehensive Plan describes the Institutional category as follows:

*This designation includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. Smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size. Zoning designations vary depending on surrounding uses. 225.16*

While one below-grade level would house support-services for the STC, of the project's 149,298 square feet of FAR-countable space, 131,273 square feet would be devoted to residential use. This use would occupy all of floors 2 through 7 and a portion of the ground floor. Neither this

allocation of FAR nor the Comprehensive Plan description of the institutional use category support considering such a mixed use building as an institutional use.

The proposed density and height of the proposed development are also inconsistent with the Comprehensive Plan’s guidelines for the application of the policy and future land use maps to a site such as the applicant’s:

*The (Future Land Use) Map does not show density or intensity on institutional and local public sites. If a change in use occurs on these sites in the future (for example, a school becomes surplus or is redeveloped), the new designations should be comparable in density or intensity to those in the vicinity, unless otherwise stated in the Comprehensive Plan Area Elements or an approved Campus Plan. (Comp. Plan pages 2-38 and 2-39).*

The predominate density and intensity of use in the vicinity is moderate density residential. The zones consistent with a Moderate Density Residential designation are R-3, R-4, R-5-A and under certain circumstances, R-5-B and C-2-A. The maximum height and FAR permitted a PUD in these zones are listed in the following table.

<b>Zone</b>	<b>PUD FAR</b>	<b>PUD Height</b>
R-3	0.6	40 feet and 3 stories
R-4	1.0	60 feet
R-5-A	1.0	60 feet
R-5-B	3.0	60 feet
C-2-A	3.0 of which no more than 2.0 may be non-residential	65 feet

The proposed PUD would be 4.09 FAR and 73 feet high – considerably more than would be permitted by the Moderate Density Land Use designation or by any zoning in the Square or on three of the four corners of the intersection. The scale of the 90-foot high, R-5-D zoned apartment building on the southwest corner is the exception to the rule but is consistent with that location’s FLUM designation of high density residential.

The proposed PUD-related SP-2 zone is identified as medium-high. Chapter 5 of 11 DCMR identifies the need for compatibility with surrounding properties (*italics added*):

- 500.2 The major purpose of the SP District shall be to act as a buffer between adjoining commercial and residential areas, and *to ensure that new development is compatible in use, scale, and design with the transitional function of this zone* district.
- 500.3 The SP District is designed to preserve and protect areas adjacent to Commercial Districts that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit.
- 500.4 The SP District is divided into SP-1 (medium density) and SP-2 (medium-high density) Districts. In both districts, new residential development shall be permitted at a higher density than new office development, *both to be compatible with surrounding properties.*

Because the SP zone is designed to be a medium to high zone and to be compatible with surrounding properties OP cannot conclude that the propos PUD-related map amendment is “not inconsistent” with the Comprehensive Plan.

### Small Area Plan

The proposed development would also be inconsistent with the Southwest Small Area Plan (SAP) adopted by the Council of the District of Columbia in 2015 after extensive consultation with the community. The SAP includes references to the applicant’s site but specifically makes no recommendation for a change in the site’s land use designation:

*At this time, the Southwest Neighborhood Plan is not making a recommendation for a land use designation change for this site until further outreach efforts can be conducted by the STC and its development partner to address community concerns. A cultural use at this site would be a preferred use going forward and efforts to change the land use should seriously be considered by the community and the ANC. The theater is encouraged to continue the dialogue with the Southwest neighborhood through the upcoming Comprehensive Plan Amendment process which will get underway in 2015. (Southwest Neighborhood Plan [SAP] page 97)*

As illustrated in Figure 4, below, the SAP recommended land use changes only for three existing church sites and for public land owned by either the District of Columbia government or its Housing Authority.



**Figure 4. Future Land Use Designation Changes, Southwest Neighborhood Plan (Figure 11.2, page 136). Adopted by Council of the District of Columbia, July 14, 2015.**

### *Comprehensive Plan Written Elements*

The applicant has identified several written elements with which the proposed development would be not inconsistent. Of particular relevance are the Arts and Culture Element's policies for Affordable Artist Housing (AC-3.1.1), Private Sector Partnerships (AC-4.2.1), Partnerships with Educational Institutions (AC-4.4.2), and Participation of Artists (AC-4.4.4). A proposed development could likely be not inconsistent with these and several of the other policies cited on pages 50-56 of the application, but at a lower height and density than proposed.

Given the current land use designation, the Comprehensive Plan's guidelines for the application of the land use maps, and the Small Area Plan's explicit statement about not making a recommendation for a land use designation change for the site at this time, OP cannot recommend the application for setdown.

## **IV. ZONING ANALYSIS**

Zone: The property is zoned R-3 (moderate density residential). The PUD-related map amendment to SP-2 (medium-high density) is requested to enable non-residential uses and additional residential height and density.

FAR: The proposed 4.09 FAR is approximately 5.7 .2 times the 0.72 FAR permitted for a by-right project in the existing R-3 district under IZ, but less than permitted for a PUD in the requested zone.

Lot Occupancy: The project proposes lot occupancy of 77%, which is 17% more than is permitted by the existing zoning but less than permitted for a PUD in the requested zone.

Height: The residential portion of the PUD would rise to a maximum of 73'2" and 7 stories, plus a penthouse. This would be 33'2" taller and 4 stories taller than what would be permitted by right but less than would be permitted for a PUD in the requested zone. Closer to the townhouses to the north, the building would step-down to approximately 42 feet and 4 stories, which would be 2 feet and one story taller than what would be permitted by-right.

§§ 411.18, 537.1 - Roof Structure Setback Relief: The applicant has requested relief from setback requirements atop the 7<sup>th</sup> floor roof in two locations facing portions of the court opening to 6<sup>th</sup> Street, and in one location on a portion of the eastern wall.

### §§ 2101.1, 2115.2 and 2115.4 - Parking Configuration and Numbers Relief:

From the description on pages 31 and 32 of the application it appears that the proposal, which would provide 73% of the spaces as compact car spaces: 1) requires and has requested relief from §§ 2115.2 and 2115.4's requirements for compact car space percentages and clustering; and, 2) appears to require relief, but has not requested it, from § 2101.1's requirement for the minimum number of non-residential spaces, because 11 of the required 34 spaces would be tandem spaces.

§ 2201 – Loading Relief: The applicant seeks relief from providing the required 55-foot deep residential loading berth and 200 square foot loading platform.

§§ 536.3 and 536.4 – Open and Closed Court Width Relief: The applicant has requested relief to provide one closed court that is 15 feet wide, rather than the required 21 feet, and to provide an open court that is 10 feet wide, rather than the required 24’8”.

Non-Profit Office Use Special Exception: The applicant seeks to provide 18,025 square feet<sup>1</sup> of non-profit office uses for the Shakespeare Theatre Company. Such a use is permitted in the SP-2 zone if the use, height, bulk and design is in harmony with the uses and structures of neighboring properties and the requested use does not create objectionable or dangerous traffic conditions.

## **V. COMPLIANCE WITH PUD REGULATIONS**

### **A. Overview**

The application does *not* appear to be not inconsistent with the Comprehensive Plan. Therefore a PUD is not an appropriate vehicle for achieving the development for which the applicant is seeking permission. Specifically, § 2400.4 reads:

*2400.4 While providing for greater flexibility in planning and design than may be possible under conventional zoning procedures, the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, nor to result in action that is inconsistent with the Comprehensive Plan.*

### **B. Zoning Relief / Flexibility Under PUD Guidelines**

The applicant is requesting flexibility from the existing zone, from penthouse, parking, loading and court requirements, and is seeking special exception permission for a non-profit office use in the PUD-related SP-2 zone. Additional clarification and information is needed for all of the requested flexibility, and for interpretations of IZ requirements.

### **C. Transportation, Parking and Loading**

The applicant has provided a preliminary transportation review under Exhibit D of the application.

### **D. PUD Benefits, Amenities and Proffers**

The applicant’s list of what it considers to be public benefits and amenities is contained under Exhibit H of the application. The applicant added three items to this list in its June 29, 2016 filing. Should the application be set down, the applicant should provide additional information to enable the Commission to understand:

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<sup>1</sup> See Sheet 1.12 of application’s architectural drawings.

- Which proposals would be in addition to community benefits now offered by the STC, and which would be continuations or expansions of existing programs;
- Which of the proposed benefits would continue for the life of the PUD;
- How the programs would be administered and monitored.
- Whether the proposed benefits and amenities are commensurate with the additional height and density requested through the related map amendment and other flexibility requests.

### E. Affordable Housing

The applicant states the project would be providing the minimum IZ-required set-aside of 8% of the residential square footage for the affordable housing, targeted to households earning no more than 80% of the Area Median Income (AMI).

The calculations in the table below reflect the amendments to the application filed on June 29, 2016 (Case Exhibit 11). The applicant is now complying with the IZ requirement for determining the minimum IZ square footage. In addition to approximately 10,502 square feet of IZ space, the applicant will also be offering between 33,710 and 35,000 square feet of living space to Shakespeare Theatre Fellows and to out-of-town actors performing at the Shakespeare’s principal stages downtown and has proffered that 2 of the market rate units would be made available for 10 years for rental by “local schools” at 40% of the market rate.

Residential Unit Type	Res. GFA	Units	Income Type	Affordable Control Period	Affordable Unit Type
<b>Residential Total</b>	<b>131,273 GSF<sup>2</sup></b>	<b>136</b>			
Market Rate	not specified	93 of 136			
IZ Total Required @ 8% of Res. GFA	10,502 GSF	11 of 136	Moderate	Project duration for all IZ units	Rental
IZ Total Provided	10,502 GSF	11 of 136	Moderate	Project duration for all IZ units	
Affordable/Non IZ	not supplied	2 of 136 for 10 years	40% of market rate rental	10 years	n/a
Other residential use for STC Fellows and actors	33,710 GSF	34 of 136	n/a	n/a	n/a

### F. Urban Design and Architecture

Neither the massing nor the site plan would be consistent with the Southwest SAP’s design guidelines which stress the Southwest’s modernist heritage of combining low-rise and high-rise buildings in one development to facilitate the provision of more significant open space than the open court facing I Street.

<sup>2</sup> Reflects figures supplied on pages 19-23 of application and on Sheet 3.14 of architectural drawings.

## **VI. OTHER GOVERNMENT AGENCY COMMENTS**

If set down, the application would be submitted to other district agencies. The applicant has begun consultations with DDOT.

## **VII. COMMUNITY COMMENTS**

The applicant has held several meetings with the ANC and community groups over the last 18 months. These have led to some changes in the design and massing of the original proposal and to the incorporation of several of the community's requests in the proposed package of benefits and amenities. However, the level of concern among nearby residents has been very significant, and led to the site not being included among those for which land use changes were recommended in the 2015 Small Area Plan. Members of the ANC and community groups have made OP aware of their concerns about the proposed project on several occasions, as recently as the date of this report.

JLS/slc

Stephen Cochran, project manager