

**HONORABLE CITY PLANNING COMMISSION
CINCINNATI, OHIO**

September 21, 2007

SUBJECT:

Clarification on the amendments to Planned Development No. 43 (PD-43) for The Banks project.

BACKGROUND:

On August 16, 2007 the Planning Commission approved amendments to PD-43 for the project known as The Banks. At the September 7, 2007 meeting, the Planning Commission requested that staff prepare a report outlining the rights given to the developer as a result of the amendments approved for PD-43.

DISCUSSION:

Section 1429-13 of the Zoning Code states: "Following approval of a PD District with a concept plan and development program statement, a final development plan must be submitted to the City Planning Commission. A final development plan must be filed for any portion of an approved concept plan that the applicant wishes to develop and this plan has to conform substantially to the approved concept plan and Development Program Statement." Substantial conformity to the concept plan and Development Program Statement refers to such items as the allowed uses and the maximum density on the project site. These types of changes are considered major amendments that require approval by City Council. This does not imply that the Planning Commission must approve the maximum limits of any of the regulations set by the approved concept plan and Development Program Statement. Section 1429-15 outlines what issues the Planning Commission must consider when approving the final development plan. Along with other issues the Planning Commission must consider:

Compatibility – the proposed uses, location and arrangement of structures, lots, parking areas, walks, open spaces, landscaping, lighting and appurtenant facilities are compatible with the surrounding land uses.

Therefore, until the Final Development Plan is submitted with details on location and arrangement of structures, the issue of compatibility cannot be addressed. Once these details are submitted, the Planning Commission will make a decision on the appropriate heights, product mix and final density.

When PD-43 was originally established on February 17, 2006, the Planning Commission approved the Hamilton County/Cincinnati **Central Riverfront Urban Design Master Plan** (Master Plan) to serve as the Concept Plan and Development Program Statement for The Banks Planned Development District. This plan would provide the conceptual baseline on which future development plans for The Banks would be reviewed and approved. As stated in the August 16, 2007 Planning Commission staff report, "the Master Plan is not entirely being replaced. Only those portions of the Master Plan that deal with density, heights, product mix, street grids and phasing are being modified. It is

the intention of the developer to ensure that the overall goals of The Hamilton County/Cincinnati Central Riverfront Urban Design Master Plan are met. The details for each lot will be presented at the Final Development Plan stage.”

In addition, page 12 of the August 16, 2007 Planning Commission staff report specifically states: “Therefore, the developer is requesting that the City Planning Commission approve the specific building heights for each Lot at the Final Development Plan stage.” Accordingly, the Concept Plan and Development Program Statement does not confer “by-right” development rights on PD-43. The Planning Commission must review each phase of the development and a Final Development Plan must be approved before building permits can be issued.

Due to the size, complexity and funding of The Banks project, a Master Development Agreement has been prepared that requires that the Urban Design Review Board (UDRB) review the design plans for this project. The recommendations of the UDRB will be provided to the Planning Commission for consideration in approval of the Final Development Plan for each phase of this project.

It should also be noted that while the Concept Plan and Development Program Statement submitted for the project represents the requests of the developer, the staff report is also a part of the record. The staff report explains and clarifies what is being requested and then recommends the action to be taken by the Planning Commission. The Planning Commission approved the recommendations of the staff report for The Banks PD amendments. The staff report clarified that the developer was requesting City Planning Commission’s approval of the specific building heights for each Lot at the Final Development Plan stage.

The Concept Plan and Development Program Statement describe the uses to be conducted in the PD District and any special regulations that may be appropriate to govern the development. It does not provide for “by-right” development because all PD Districts must obtain Final Development Plan approval from the Planning Commission. The Planning Commission will review the details of the proposed development including the compatibility of the proposed uses, location and arrangement of structures with the surrounding uses.

RECOMMENDATION:

This report is being submitted for informational purposes only. No action is required by the Planning Commission.

Respectfully submitted:

Approved:

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