

CITY OF JERSEY CITY

Department of Housing, Economic Development & Commerce
Division of City Planning



Interdepartmental Memorandum

DATE: 4/7/2021
TO: Planning Board Commissioners
FROM: Matt Ward, PP, AICP
RE: P20-164 155 Bay Street Final Major Site Plan Amendment
Staff Memo

BACKGROUND

The applicant is requesting a Final Major Site Plan Amendment for the third phase of the Provost Square Project. Proposed amendments to include changes raised by building department, reconfiguration and enlargement of amenity spaces on the tower and in the podium, revisions to the theater seating, HVAC and support areas, reconfiguration of exterior theater steps, relocation of mechanicals, reconfiguration of work live units and height adjustments to accommodate these revisions.

This application is in the Arts Theater Residence Overlay Zone ("ATROZ") of the Powerhouse Arts District Redevelopment Plan, for which there are specific standards and community benefit requirements. The Provost Square project is four phases. Phase 1 and 2 are complete. Phase 3 has preliminary and final major site plan approval and is the subject of tonight's amendment request. Phase 4 only has preliminary major site plan approval dating from 2009. Final for phase 4 has not been sought, but that phase also called Section D contains community benefits that are required to be constructed to finalize the density and FAR bonuses afforded by the ATROZ. Lastly, Phase 2 recently received an extension of an interim use to maintain their leasing office in a future retail space.

The variances requested as part of this application is screening of rooftop mechanical, appurtenance setback, maximum percent of rooftop mechanical.



Above: Arts Theater Residence Overlay Zone shown in red boundary above. Cross streets are Morgan and Bay Streets. Larger map is at the end of this memo, which lists the phases clearly.

STAFF COMMENTS

1. Applicant shall provide testimony regarding the zoning regulations and project compliance.
 - a. **How many units are proposed across all phases of the developments within the Arts Theater Residence Overlay Zone?**
2. Applicant shall provide testimony for, but not limited to, the following: proposed amendments to the site plan, access, appurtenances, façade materials, unit sizes and ceiling heights, amenity decks.
3. Applicant shall provide testimony regarding variances requested.
4. Applicant shall provide testimony regarding the timing and construction of the remaining phase of Provost Square.
5. **Applicant shall provide testimony and proof of compliance or status of the community benefits of the Arts Theater Residence Overlay Zone:**
 - a. Applicant shall provide testimony and proof of compliance with the Arts Contribution requirement.
 - b. Applicant shall provide testimony regarding compliance with the “facilities” to be operated by the “Non-Profit”
 - c. Applicant shall provide testimony regarding compliance with the “Non-Profit” board member requirements. Three are to be appointed by the City.
 - d. Applicant shall provide testimony regarding compliance with the Performing Arts Theater and Arts-Related Space.
 - i. Applicant shall provide testimony regarding the operation of the theater performance space and the retractable stairs/seating.
 - ii. Minimum of 550 theater required.
 - iii. First floor shall include commercial uses that enliven the corridor
 - iv. Second and third floors of the building shall be dedicated to arts related classrooms, rehearsal space, and/or artist workspace/studios
 - v. Fourth and fifth floors of the building shall contain a minimum of twelve (12) artists work/live units of varying designs to accommodate a variety of arts-related professions
 - e. Applicant shall provide testimony regarding compliance with the Creation of Pedestrian Open Space Plaza requirements
 - f. Applicant shall provide testimony regarding compliance with the Workforce Housing (“Affordable Housing”) requirements:
 - i. Development utilizing the Arts Theater Residence Overlay Zone shall provide workforce residential housing units as part of said residential project.
 - ii. The number of workforce housing units to be provided shall be equal to at least ten percent (10%) of all market rate residential units proposed in the Arts Theater Residence Overlay Zone; however, there are some discounting factors in the zoning. Excerpts below.
 - iii. **How many workforce units have been built to date?**
 - iv. **How many workforce units are required per the provisions of this overlay zone? Or how have the workforce housing requirements be satisfied to date?**
 - g. Applicant shall provide testimony regarding compliance with Shared Parking requirements.
 - i. Required to provide 100 parking spaces available to PAD residents and others as listed in the excerpt below.
6. **Staff recommends that the Applicant provide testimony regarding the timeline of Phase Four or Section D prior to making a motion on this amendment.** Currently the applicant has only received Preliminary Major Site Plan Approval for phase 4 or Section D. An approval which doesn’t entitle the applicant to pull permits. The Applicant should continue to make a good faith effort with regards to the

construction of Provost Square / ATROZ by testifying to the estimated completion of Phase Four or Section D.

It must be stated that the lopsidedness of the last phase should be of concern to the Board. All other phases are multi-hundred unit building. Phase 4 is only a 32-unit building and the Applicant has sought Final Major Site plan Approval in the nearly 11-plus years since the first approval. Therefore, Staff recommends it is important to determine a reasonable duration of time before the City should consider penalties in the form of Zoning Violations. Testimony should be provided regarding the following more specifically:

- a. When is the Applicant planning to submit for a Final Major Site Plan Application for Section D?
- b. Post approval of a final major site plan for Section D, provide an estimate of months for the applicant to submit for building permits for Section D.
- c. Provide an estimate of months to construct Section D from start to finish.
- d. **If these estimated dates are not met within reason, what is a reasonable duration of time before the City should consider levying zoning violations?**

TRANSCRIPTION HISTORY AND PHASING

Over the course of the approvals dating back to 2009, there have been several amendments. The application started with a Preliminary Major Site Plan application and approval for all four phases of the ATROZ or Provost Square project. The following excerpts of transcripts and paraphrased excerpts are provided to indicate to the board that phasing has been flexible since the beginning, but that phasing has also been a concern of the public and commissioners over the course of the many applications, approvals and extensions.

Emphasis is added in yellow highlight like **this** and sometime in underline like this.

1. Tuesday, February 24, 2009 for case P08-114 Preliminary Major Site Plan with Deviations
 - a. Page 90, stating at line 10 – The witness and architect states in response to James McCann’s questioning regarding phasing of Section D:
 - A. *[Architect Paul Albano] Section D is pretty much a stand-alone section. This section does not need to tie into the stormwater detention system. It's tied into the sewer system. So with the exception to parking, which can be accommodated in A or C, it's stand-alone. Once it's built, it has its own utilities, it has its own recreation space. So it basically is self-sustaining with the exception of parking. So that's why we feel it would go with A or C.*
 - Q. **[McCann] So Section D would have to be second?**
 - A. **Section D would have to be the second, right, phase. No sooner than the second phase.** It could never be sooner than the second phase.
 - b. Pages 83 to 89, paraphrasing testimony by Architect Paul Albano regarding construction length for sections A, B, and C. **Please note, Section D construction timing was not disclosed on the record.**
 - Section C has an estimated construction time of 32 months (page 83)
 - Section A has an estimated construction time of 32 months (page 85)
 - Section B has an estimated construction time of 38 months (page 89)
2. Tuesday, March 10, 2009 for case P08-114 Preliminary Major Site Plan with Deviations
 - a. Page 100, starting at line 19 – Mr. Cotter (former City Planning Director) is discussing Preliminary Major Site Plan Approval and lack of entitlement to pull permits. Most Important to this conversation about Phase 4 (Section D) is that Mr. Cotter states that it is appropriate to consider performance bonds, redeveloper agreements, developer’s agreements at final site plan approval. Also included in this excerpt, Acting Chairman Yost and James McCann discuss the applicant coming back for final major site plan approval.

MR. COTTER: So, the approval that's being requested tonight is preliminary. They could have come in with preliminary and final at the same time. Many people do that. But they chose to come in with preliminary. That does not entitle them to any building permits or any demolition permits. They must come back to this Board for final site plan approval at some point in the future. They're basically entitled to come in when they feel like it. We can't make them come back in in six months or a year. But there'll be further discussions. And some of the issues that were brought up tonight, about performance bonds and redeveloper agreements, developer's agreements, it's premature to do that now, at this stage. It will be appropriate to do that at the final site plan approval stage that will be at some point in the future.

ACTING CHAIRMAN YOST: Thank you, Mr. Cotter. Mr. McCann.

MR. McCANN: Yes, Chairman.

ACTING CHAIRMAN YOST: Why didn't your applicant file for preliminary and final?

MR. McCANN: At the present time, we weren't ready to proceed with the final site plan approval. And there is still litigation pending. And until that issue is resolved, we did not -- we determined it was premature to proceed with final site plan approval. It was appropriate to proceed with preliminary site plan approval.

ACTING CHAIRMAN YOST: And what do you anticipate, in terms of schedule, for a filing of the final?

MR. McCANN: To some degree, that's dependent upon market conditions and whether or not the litigation is -- once it's resolved, if it's appealed. So that would be very hard for me to anticipate at the present point in time. It would also require us to refine the preliminary, to some degree. I don't have a time. I could go talk to my client, if you would like, right now.

ACTING CHAIRMAN YOST: No.

MR. McCANN: I think there's a lot of contingencies that need to be resolved. That's all.

ACTING CHAIRMAN YOST: And am I correct in assuming that when you come back for final, there would be amendments? For instance, the scattered window treatment might be suggesting one versus the other scenario.

MR. McCANN: Yes, that would be one thing that I think probably we would take a look at and change that facade, if it so pleases the Board.

ACTING CHAIRMAN YOST: Thank you.

3. Tuesday, October 25, 2011 for Case P08-114.1, Preliminary Site Plan Amendment and Final Major Site Plan Amendment and Final Major Site plan for Phase 1

- a. Page 107, starting on line 5 – Mr. Cotter (former City Planning Director) discusses Phase 3 Section B building and zoning violations or penalties if the Applicant does not delivery the Community Benefits.

MR. COTTER: Hold up, Leon. I just want to make it clear to embellish what Mr. Kolling brought to the Board about the allegations for the bonus. That also includes all the amenities that come in Phase 3. At the completion of Phase 3, provost Square will be installed. That's the cobblestone street with the railroad tracks. That's the artists work/live space in Phase 3 building. It's the artists in residence in the Phase 3 building. It's the 550-seat theater in the Phase 3 building. And it's the arts space, I forget the exact number of square feet, but it's a gallery, essentially. All of those are part and parcel of tonight's approval. They're not sitting out there to fall off a precipice. This is a bonus. So essentially it's paid forward. It will be in the resolution, it will be in the motion, that all of those things are still a part of this project in order to enjoy tonight's final approval for a bonus that gets them that 417 units and 38 stories of building.

They owe us and they will provide those amenities in Phase 3. Should they decide somehow that they're not going to do that, then I would suggest there would be a significant penalty to pay essentially for those amenities to be built somewhere else.

I know that's the concern of the neighborhood. It's the concern of my staff, of other staff in the city. But I think your resolution tonight will simply say that you owe us those amenities and

you will provide them. And Toll wants to do it. It's part of the deal here, is they're creating a mini-Lincoln Center with apartments upstairs.

And it will be a terrific amenity when they get to Phase 3. Hopefully they can do condos and they'll go for big bucks because it will be deluxe. There's a theater downstairs, there's a square. Many of the amenities in the other projects that are coming will be in place and it will be a very successful project.

It's figured out to the hilt. These folks know what they're doing. People are afraid of them, but I have confidence that they will deliver because the market is going to be sensational here in a few years when Phases 1 and 2 are done. Phase 3 will be spectacular.

There's no reason why they won't deliver. However, to assuage the concerns of the neighbors, it will be an ironclad component of the resolution in the motion made here tonight to approve. We recommend approval with those provisos.

- b. Page 112, starting one line 23 – Chairman Ryan requests James McCann to provide assurances that all community benefits and phases will be constructed and provided as required.

CHAIRMAN RYAN: *Jim, you're the representative of the developer. Do you have any assurances? What's your comments? What's the builder's comments?*

MR. McCANN: *My thoughts are this. We have a preliminary site plan approval in place that requires us to build out the entire project, all four lots. I agree with Mr. Cotter that that approval, we haven't asked for a change to any other components. So that obligation still stays in effect. We have to build out the entire site. I think the question might be, when are we going to build it out? But the developer has to build out the entire site.*

The only entities that can relieve the developer from doing that is, number one, the City Council. Because the ATROZ is very specific. It has a lot of specific language in it that was put there for the purpose of ensuring that the entire project gets built eventually.

So I agree with Mr. Cotter. In concept, I think that what this Board should do is reiterate in its resolution that all of the requirements in the preliminary site plan approval remain in full force and effect and that we have to come back for final site plan on the additional phases. But only the City Council can change.

This Board has some discretion to change some of the things, but not the bonus requirements, not the community benefit requirements, only the City Council can change them.

So even if Toll Brothers disappeared, even if they went bankrupt, the next property owner of all of these sites has the same obligation that Toll Brothers had. I mean, you basically -- the City Council chose to approve the ATROZ because they thought Toll Brothers had the capacity to do all of this based upon their track record. But regardless of who owns the property, all of the things in the preliminary site plan must be done and the City Council has mandated it.

REGULATIONS AND REQUIREMENTS

The following regulations and requirements from the Powerhouse Arts District Redevelopment Plan are cited below for easy reference by the Board Commissioners.

Excerpts of the Powerhouse Arts District Redevelopment Plan is shown in times new roman font below. Emphasis is added in yellow highlight like **this** and sometime in underline like this.

POWERHOUSE ARTS DISTRICT REDEVELOPMENT PLAN

F. Arts Theater Residence Overlay Zone:

The Arts Theater Residence Overlay Zone shall consist of Blocks 11505 and 11506 in their entirety, as well as Lot 3 on Block 11509.

From its adoption in October 2004, a primary goal of the PAD has been the development of Certified Artist Affordable and market-rate work/live loft units. There now is to be developed within the PAD a stock of affordable and market rate work/live units to address the housing demands of the artist community. It is the intention of the amendments and this Arts Theater Residence Overlay Zone to not only continue with that goal, but also expand growth within the PAD to advance the cultural, arts, and entertainment centric incubator elements of the plan in order to sustain a diversified artistic community as a viable educational and economic enterprise, and to further diversify the housing stock to include traditional residential units and workforce housing. The expansion of the artistic community to integrate a variety of artistic expertise shall broaden the ability of the district to achieve ongoing economic stability. To that end, the purposes of this zone include the creation of a significant arts related anchor within this zone, in the form of a performing arts theater and associated arts related ancillary spaces such as rehearsal space, artists studios, and/or arts classrooms. It is also the purpose of this zone to provide a significant open space/pedestrian plaza which will function as a gathering place for residents of and visitors to the area and an entrance space to the performing arts theater, and further serve as a gateway in to the Powerhouse Arts District from the south. The pedestrian plaza will be further activated by ground floor commercial and active uses, including, but not limited to, restaurants, cafes, nightclubs, cabarets, and bars surrounding and opening onto the plaza and the inclusion of public art in the plaza.

The intent of the Arts Theater Residence Overlay Zone is to promote the comprehensive redevelopment of this overlay zone in a unified manner. Therefore, the Arts Theater Residence Overlay Zone may only be utilized when development of the overlay district is to be undertaken as a common scheme. If the Arts Theater Residence Overlay Zone is to be utilized, the following criteria and requirements must be met, and these criteria and requirements supersede and replace the requirements of the underlying Transition and/or Rehabilitation Zones and any other development criteria or requirements of this redevelopment plan that are inconsistent herewith and LDO #345-30 and 71:

2. Arts Contribution - Development utilizing the Arts Theater Residence Overlay Zone must make a financial contribution in the amount of at least one percent (1%) of the first \$20,000,000 of "total building construction and rehabilitation cost minus the cost of constructing workforce units" and one-half of one percent (.5%) of such amount thereafter up to a maximum contribution of \$1,150,000, which shall be dedicated towards the cost of the ongoing operation and continued viability of the cultural and arts-related uses developed within the Arts Theater Residence Overlay Zone. This arts contribution shall be paid by the developer for the purpose of operating and maintaining any cultural and/or arts-related uses that are constructed within this Zone, including, but not limited to, a performing arts theater, rehearsal space, arts classrooms, artist workspace and/or studios. The contribution shall be made by the developer upon the issuance of the first building permit for development on Block 11506. This arts contribution shall supersede and replace the contribution for permanent public art required under Section VI. A. 8.

The cultural and arts-related uses, including, but not limited to, the theater, rehearsal space, arts classrooms, artist workspace and/or studios ("facilities"), shall be operated by a non-profit entity (the "Non-Profit"). The Non-Profit does not contemplate pecuniary gain or profit to the members thereof and the specific purpose for which it will be formed is to provide for the successful and sustained utilization of the facilities. To accomplish this specific purpose, the Non-Profit will, among other things, adopt an annual budget and operational plan that raises sufficient funds and charges user fees necessary to pay all expenses to sustain the utilization, operation, management and maintenance of the facilities and provide for the management, administration, utilization, and maintenance of the facilities. The Board of Trustees of the Non-Profit will consist of seven (7) members, four (4) of which shall be appointed by the developer. Three (3) members shall consist of an appointed employee from the Office of the Mayor, an appointed employee from the Department of Housing and Economic Development, and an individual appointed by the Mayor who is a member of an arts-related organization established within the City. The duties of the Board of Trustees shall include, but not be limited to, hiring of an executive director and the establishment of an annual budget and operating plan for the Non-Profit. The day-to-day operation of the Non-Profit shall be managed by the executive director. The executive director will be,

among other things, responsible for establishing programming, guidelines and regulations, user fees, and qualifying companies, groups, artists, musicians, and educators, or other performers or art related educational associations for use of the facilities. When establishing programming, the executive director will attempt to create a diversity of culture, arts, entertainment and educational opportunities and experiences for residents of the PAD and greater Jersey City.

Any applicant who has submitted a complete application to use the theatre and agreed to comply with all guidelines and regulations; pay the user fees; and comply with insurance requirements, but who has been rejected by a decision by the executive director due to the type of program or performance submitted, may appeal the decision of the executive director to the Board of Trustees. Only rejections relevant to programming may be appealed, and only applicants aggrieved by a programming decision of the executive director may appeal. The Board of Trustees shall review all such appeals and shall either uphold or overrule the decision of the executive director on the applicants program or performance. No decisions of the executive director other than programming decisions are appealable to the Board of Trustees.

11. FAR and Density Bonuses - Provided that those public community benefits outlined in this Section VIII. F. 11 are constructed, development utilizing the Arts Theater Residence Overlay Zone shall be permitted FAR and density bonuses totaling up to a maximum FAR of 13.0 and a maximum density of 300 dwelling units per acre, both of which are to be averaged over the entire Arts Theater Residence Overlay Zone. In no event shall any City-owned right-of-way, including Provost Street between Morgan and Bay Street, be included in the FAR or density calculations for any development within the Arts Theater Residence Overlay Zone. The design criteria for work/live units contained in Section VI. I. shall not apply to residential development within the Arts Theater Residence Overlay Zone. All of the following public community benefits must be met in order to receive these FAR and density bonuses:

- Block 11506: Performing Arts Theater and Arts-Related Space – Development utilizing the Arts Theater Residence Overlay Zone must construct a performing arts theater of at least 550 seats, which shall serve as the arts related anchor and gateway into in the Powerhouse Arts District from the south. Said theater is to be located in that portion of the new building on Block 11506 that is directly behind the Provost Street façade of the former A & P annex building such that the entrance into the theater shall be through the preserved former A & P Annex façade on Provost Street. In addition to the performing arts theater, the first floor of the building shall also incorporate commercial and active uses, including, but not limited to, restaurants, cafes, nightclubs, cabarets, and bars to enliven the corridor surrounding the open space/pedestrian plaza. These commercial and active uses shall be buttressed by the creation of vitrines on the ground floor façade in areas where commercial/active uses are not feasible due to building systems. The second and third floors of the building shall be dedicated to arts related classrooms, rehearsal space, and/or artist workspace/studios, and the fourth and fifth floors of the building shall contain a minimum of twelve (12) artists work/live units of varying designs to accommodate a variety of arts-related professions. This minimum of twelve (12) artists' work/live units shall include the artist in residence unit referenced below in this Section VIII. F. 11. In an effort to promote artistic diversity and accommodate the requirements of a wide range of artistic expertise, these twelve (12) work/live units need not be developed in accordance with the design criteria for work/live units outlined in Section VI. I. or Section VIII. E. 6. In lieu of any other financial obligation or requirement for affordable work/live units, including the marketing and control of purchases of such work/live units, eleven (11) work/live units shall be offered at a discount in the initial purchase price in the amount of thirty percent (30%) from the offering sale price for the same or similar unit at the closing of title to only those artists who are certified by the City for the initial 180-day exclusive marketing period.
- Block 11506: Artist in Residence Unit - As one (1) of the twelve (12) work/live units required above in this Section VIII. F. 11, development utilizing the Arts Theater Residence Overlay Zone must provide an Artist in Residence Unit ("AR Unit"), which shall be dedicated in fee to the City of Jersey City, or the appropriate City agency, upon the issuance of a Certificate of Occupancy for the unit.

Upon dedication of the AR Unit to the City, the City shall be responsible for the payment of all condominium or homeowner maintenance fees and other condominium or homeowner assessments for the unit. Said AR Unit shall be temporarily occupied for periods of not less than 6 months at a time by artists visiting and working within the PAD; occupancies by such visiting artists shall be determined, overseen, and monitored by the City of Jersey City or its designated agent. The AR Unit is to be located in that new portion of the new building on Block 11506 that is directly behind the Provost Street façade of the former A & P Annex Building.

- Block 11505: **Creation of Pedestrian Open Space Plaza** - Development utilizing the Arts Theater Residence Overlay Zone must construct a public open space/pedestrian plaza that shall occupy the right-of-way of Provost Street between Morgan Street and Bay Street, which shall be vacated or subject to a franchise granted by the City, and shall utilize not less than 14,000 square feet of Block 11505 for this pedestrian plaza, consisting of an area measuring approximately 70 feet deep from Provost Street and extending the entire width of the block from Morgan Street to Bay Street. The total area of the Plaza, inclusive of the Provost Street right-of-way and the portion of Block 11505, shall be at least 24,000 square feet. The pedestrian plaza shall be dedicated to the City as a public park. The Belgian Block contained within the Provost Street right-of-way shall be removed and adaptively reused in the Open Space Pedestrian Plaza. The pedestrian plaza shall be improved with decorative paving, pedestrian scale lighting, shade trees, flowering trees and other decorative landscape elements; and shall also be utilized for the display of public art. Such public art may be subject to regular rotation. The developer or subsequent owner(s) of the adjacent properties within the Arts Theater Overlay Zone shall be responsible for all required regular maintenance of the pedestrian plaza, which shall be specified in a dedication agreement between the City and/or its agents and the developer and/or owners of the adjacent properties. If development of this pedestrian plaza is undertaken by the developer, the existing buildings on Block 11505 may be demolished.
- Affordable Housing - **Development utilizing the Arts Theater Residence Overlay Zone shall provide workforce residential housing units as part of said residential project.** Workforce housing is defined herein as housing sold or leased to buyers or lessees who make eighty percent (80%) to one hundred twenty percent (120%) of median income, as defined by the median income limits of the New Jersey Housing and Mortgage Finance Agency for its Smart Start Program. The number of workforce housing units to be provided **shall be equal to at least ten percent (10%) of all market rate residential units** proposed in the Arts Theater Residence Overlay Zone. These units shall be restricted to workforce housing units, as defined herein, for a period of thirty (30) years, beginning with the issuance of the first certificate of occupancy for a workforce unit. **These units may be located onsite within any specified individual building.** In lieu of any other requirement outlined in this redevelopment plan for Certified Artist affordable units, including the marketing and control of any such Certified Artist affordable units, the City may require that any workforce units constructed on-site shall be subject to a 180-day exclusive marketing period to qualified Certified Artists who meet the income requirements for workforce housing defined in this section. **Up to 50% of the workforce housing requirement may be provided off-site.** This workforce housing requirement may also be satisfied through the provision of a financial contribution to the City of Jersey City in an amount up to **one hundred and fifty thousand (\$150,000) dollars per required workforce residential unit.** This contribution shall be paid by the developer to the City in two (2) installments: (1) fifty percent (50%) of the contribution shall be paid upon **a final non-appealable site plan approval** granted by the City of Jersey City Planning Board for any development within the Arts Theater Residence Overlay Zone, and (2) the remaining fifty percent (50%) of the contribution shall be paid at the time of issuance of the **first final certificate of occupancy for any building constructed within the Zone.** These contributions shall be specifically earmarked for the construction of affordable housing within the City of Jersey City. The provision of a performing arts theater and any associated arts related ancillary spaces shall count as a credit against the total number of workforce units required, **calculated as a deduction of one workforce housing unit for every one thousand square feet of theater and/or associated arts related space constructed.** In addition, if an artist in residence unit is provided in accordance with this Section VIII. F. 11, such unit **shall count as one credit against the total**

number of workforce units required. These requirements for workforce housing shall supersede and replace the requirements for affordable artist housing found in Section VII, Paragraph F of this redevelopment plan. Nothing herein shall prohibit Certified Artists from qualifying for the above workforce housing units.

- Shared Use Parking - Development utilizing the Arts Theater Residence Overlay Zone must provide additional parking spaces equal to 100 parking spaces above the minimum required by the specific use(s) to be developed within the Arts Theater Residence Overlay Zone. Said spaces are to be made available to residents of the PAD, especially residents of the Transition and Rehabilitation Zones, which may not be able to provide parking due to the configuration of the property and/or buildings existing on these properties. These 100 additional spaces shall also serve as a parking resource available for visitors to, patrons of, and owners and employees of uses and buildings within the PAD on a shared use basis.

STAFF RECOMMENDED CONDITIONS

In the event a motion is made to approve this application, staff recommends the following conditions:

1. All conditions shall remain in full force and effect or as amended herein.
2. The applicant shall file an application for a Final Major Site Plan for phase 4 also known as section D by a date to be determined by the Planning Board.

