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Washington, D.C. 20006
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202 828 5978
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RECEIVED
D.C. OFFICE OF PLANNING
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June 2, 2005

VIA HAND DELIVERY

Zoning Commission of the District of Columbia
Suite 210 South
441 4th Street, N.W.
Washington, DC 20001

Re: Z.C. Case No. 03-12A/03-13A (Capper/Carrollsburg Venture LLC) - 2nd Stage PUD and Modification) - Certified Copy of PUD Covenant

Dear Members of the Commission:

Enclosed herewith, please find a certified copy of a PUD Covenant, dated as of May 3, 2005 by and between the District of Columbia Housing Authority and the District of Columbia, recorded in the land records of the District of Columbia on May 12, 2005 as Instrument Number 2005065131. The recordation and submission of this certified copy of the PUD Covenant is in accordance with Chapter 24 of the Zoning Regulations and Condition No. 24(d) of Zoning Commission Order No. 03-12/03-13.

Sincerely,

Kyrus L. Freeman

Enclosure

cc: D.C. Zoning Administrator (w/certified copy enclosed – via Hand)
Paul Rowe, Mitze Smith, D.C. Housing Authority (w/certified copy enclosed - via UPS)
Steve Cochran, D.C. Office of Planning (w/enclosure – via UPS)

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ZONING COMMISSION
District of Columbia
CASE NO. 03-12A
EXHIBIT NO. 12

ZONING COMMISSION
District of Columbia
CASE NO.03-12A/03-13A
EXHIBIT NO.12

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LT2-0-0-53

PUD COVENANT

LT1-5-20050513 1-1

THIS COVENANT, made as of this 3rd day of May, 2005, by and between the DISTRICT OF COLUMBIA HOUSING AUTHORITY, an independent authority of the District of Columbia (hereinafter referred to as the "Declarant"), and the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "District").

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property known as Square 824, Lots 37, 38 and 39; Square S825, Lots 31, 32 and 33; Square 880, Lot 24; and all of Squares 797, 798 and 825 in the District of Columbia (the "Subject Site"); and

WHEREAS, an application on behalf of the Declarant was filed for a Planned Unit Development and Zoning Map Amendment, and the Declarant intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the "Project") under Chapter 24 of the Zoning Regulations of the District of Columbia in accordance with Zoning Commission Order No. 03-12/03-13 effective October 8, 2004, in Zoning Case Nos. 03-12 and 03-13;

WHEREAS, said Chapter 24 and Zoning Commission Order No. 03-12/03-13 requires the Declarant to enter into this Covenant with the District of Columbia assuring the Declarant's, and its successors and assigns in title, development and use of the Project as approved by the Zoning Commission of the District of Columbia (hereinafter referred to as the "Zoning Commission") in Order No. 03-12/03-13, and any modifications, alterations or amendments thereto.

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows:

1. Approved Plans. The terms and conditions of the Zoning Commission's approval of the Planned Unit Development and Amendment to the Zoning Map under Order No. 03-12/03-13 effective October 8, 2004 (as the same may be amended and/or modified from time to time, collectively the "Order"), are incorporated herein by reference and made a part hereof as Exhibit A and shall be considered a part of this Covenant. As required by the Order, the Subject Site will be developed and used in accordance with the plans approved by the Order and in accordance with the conditions and restrictions contained in the Order, subject to such changes thereto as the Zoning Administrator of the District of Columbia and/or the Zoning Commission may authorize, pursuant to 11 DCMR §§ 2409.6 and 2409.9 respectively. The Declarant covenants that it will use the Subject Site only in accordance with the terms of the Order, as the same may be further amended and/or modified from time to time by the Zoning Commission, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

2. Additional Time To Construct Planned Unit Development. If Declarant, its successors or assigns should fail to file for a building permit and to commence construction of the approved Planned Unit Development within the time specified in the Order, the Zoning Commission may duly consider an application for an extension of time in accordance with 11 DCMR § 2408.10.

3. Default. In the event that Declarant, its successors or assigns fails to file for a building permit and to commence construction of the approved Planned Unit Development within the time specified in the Order or within any extension of time granted by the Zoning Commission for good cause shown pursuant to section 2408.10,

the benefits granted by the Order shall terminate pursuant to Section 2400.7 of the Zoning Regulations.

4. Future Conveyance. The Declarant covenants that if any conveyance of all or any part of the Subject Site takes place, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant.

5. Successors and Assigns. The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns, and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the Subject Site. The District shall have the right to enforce all covenants, conditions and restrictions contained herein.

6. Recordation. The Declarant, its successors or assigns shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission.

7. Counterparts. This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Rescission/Alteration of Chapter 24 Covenant. The covenants hereby created may not be modified or extinguished without the prior approval of the Zoning Commission and the written consent of the District. In the event any amendment, modification, rescission or alteration of the Order is adopted or authorized by the Zoning Commission, or in the event of a lapse of said Order by its terms, the District shall, upon

the request of Declarant, its successors or assigns, execute an instrument, in recordable form, evidencing such action or lapse, which instrument shall amend, modify, rescind, nullify or alter this Covenant, as the case may be.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, as of the date first written above, the DISTRICT OF COLUMBIA HOUSING AUTHORITY, intending to be legally bound, has caused this PUD Covenant to be executed by Michael Kelly, its Executive Director, for purposes of executing, acknowledging and delivering this PUD Covenant, as the free act and deed of said DISTRICT OF COLUMBIA HOUSING AUTHORITY for the uses and purposes herein contained.

DISTRICT OF COLUMBIA HOUSING AUTHORITY, an independent authority of the District of Columbia,

By: Michael Kelly
Its: Executive Director

By: _____

WITNESS:

_____
Name: Margaret McFarland
Title: General Counsel

DISTRICT of COLUMBIA, ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Michael Kelly, the Executive Director of the District of Columbia Housing Authority, an independent authority of the District of Columbia, and a party to the foregoing Covenant, personally appeared before me and, being personally well known to me, acknowledged said Covenant to be the act and deed of said limited liability companies and that he delivered the same as such.

GIVEN under my hand and seal this 13th day of April, 2005.

_____
Notary Public

My commission expires: CANDAS E. PARKER
Notary Public, District of Columbia
My Commission Expires Dec. 14, 2007

[NOTARIAL SEAL]

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D.C., who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932.

DISTRICT OF COLUMBIA,
a municipal corporation

WITNESS: Tabatha Braxton

By: Sheryl Hobbs Newman
Secretary, D.C.

(Corporate Seal)

DISTRICT OF COLUMBIA, ss:

I, Tabatha Braxton, a Notary Public in and for the District of Columbia, do hereby certify that Sheryl Hobbs Newman, who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing Covenant bearing date of the 3 day of May, 2005, and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA.

GIVEN under my hand and seal this 3 day of May, 2005

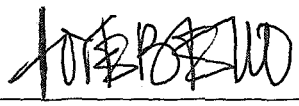
Tabatha Braxton
Notary Public, D.C.

My commission expires: _____.

[NOTARIAL SEAL]

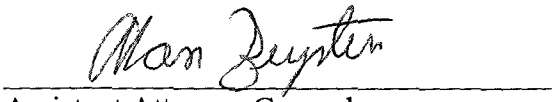
TABATHA BRAXTON
Notary Public District of Columbia
My Commission Expires April 14, 2007

APPROVED:



Zoning Division, Department of
Consumer and Regulatory Affairs

APPROVED AS TO LEGAL SUFFICIENCY:



Assistant Attorney General
Office of the Attorney General for the District of Columbia

EXHIBIT A

Zoning Commission Order No. 03-12/03-13

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-12/03-13
Z.C. Case Nos. 03-12 and 03-13
Preliminary and Consolidated Approvals for Planned Unit Developments and Related Map Amendment for the Property Generally Bounded by 2nd Street, S.E., 7th Street, S.E., Virginia Ave., S.E. and M Street, S.E. (Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and Portions of Squares 737, 799, 824, N853, and 880)
February 6, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on July 24 and 28, 2003 to consider applications from Capper/Carrollsburg Venture, LLC, the District of Columbia, the District of Columbia Housing Authority, and Square 769, LLC (collectively, "Applicants") for preliminary and consolidated review and approval of a planned unit development in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and portions of Squares 737, 799, 824, and 880, and related map amendments to rezone Square 767, the southern portions of Squares 768 and 882, and the northern portion of Square 769 to the CR district. The Commission considered the applications pursuant to chapters 24 and 30 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the applications with conditions. (Note: *A portion of Square N853 was subsequently included as part of the applications.*)

FINDINGS OF FACT

The Applications, Parties, and Hearing

1. On March 21, 2003, the Applicants filed applications with the Zoning Commission for preliminary and consolidated approval of two planned unit developments ("PUDs") that together comprise one large PUD and for related map amendment for property located in the Southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th Street on the east, Virginia Avenue on the north, and M Street on the south. Consisting of approximately 33 acres of land area, the PUD site as initially proposed included all property in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and portions of Squares 737, 799, 824, and 880; a portion of Square N853 was also

included subsequently. The site is presently zoned R-5-B, except for Squares 737 and 739, and the southern half of Square 769, which are zoned C-3-C. The Applicants are seeking preliminary review and approval for the entire PUD site, consolidated review and approval for Squares 797, 798, 824, 825, 825S, and 880, and a PUD-related amendment to the zoning map to rezone Square 767, the southern portions of Squares 768 and 882, and the northern portion of Square 769 to the CR district.

2. Prior to taking action on the applications, the Zoning Commission received a letter, dated October 28, 2003, from the Superintendent of the District of Columbia Public Schools. The letter requested that the Van Ness Elementary School, located on the east side of 5th Street between L and M Streets, be included in the PUD. By letter dated November 6, 2003, the Applicants indicated their intention to include the Van Ness School in the PUD. In the Applicant's Supplemental Post-Hearing Submission, dated November 17, 2003 and marked as Exhibit No. 78 of the record, Lot 809 in Square N853 was included on the appropriate plans.

3. The Applicants are Capper/Carrollsburg Venture, LLC, the District of Columbia, the District of Columbia Housing Authority ("DCHA"), and Square 769, LLC. Capper/Carrollsburg Venture, LLC is a joint venture of Mid-City Urban, LLC and Forest City Enterprises. Square 769, LLC, is a subsidiary of the William C. Smith & Co.

4. The purpose of the PUD is to implement a revitalization plan at the site of the Arthur Capper/Carrollsburg Dwellings, a public housing community owned by DCHA. The project is funded in part by the HOPE VI program of the U.S. Department of Housing and Urban Development ("HUD"), which targets the replacement and revitalization of severely distressed public housing and includes supportive services for residents to help them achieve self-sufficiency.

5. After proper notice, the Zoning Commission held a hearing on the applications on July 24 and 28, 2003. The parties to the case were the Applicants; Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the property is located; and ANC 6B, an affected ANC that borders the PUD Site at the north along the Southeast Freeway and Virginia Avenue, S.E., and to the east at 7th Street, S.E.

6. At its duly noticed meeting held July 14, 2003, ANC 6D voted 4-0-2 to oppose the PUD. The ANC also appeared as a party in opposition at the hearings. While recognizing the many positive aspects of the project, the ANC's opposition was based on: (i) the taking of approximately 15 existing private homes by eminent domain; (ii) the absence of a final and operational Community and Supportive Services Program to equip the residents with the necessary tools to assure their ability to return to their homes; and (iii) the excessive density of the overall project.

7. ANC 6B submitted a report and testified at the hearing as an affected ANC due to its immediate adjacency to the PUD project. ANC 6B voted to support the consolidated PUD but withheld support for the preliminary PUD pending further clarification of certain concerns. ANC 6B voiced its concern over the possible isolation of the neighborhood and the apparent lack of open space within the heart of the site. The ANC also expressed its uncertainty over the amenities package as it related to the recreational facilities provided by the new Marine Barracks nearby. Similarly, ANC 6B argued that the construction and operation of a proposed community center was not adequately defined. Finally, the ANC urged that the heights of the commercial buildings along M Street were too tall and would overshadow the smaller Van Ness School, the new small-scale rowhouses of the PUD, and the nearby low-rise buildings along 8th Street, which has a 45-foot height restriction due to the 8th Street Overlay.

8. Persons in support of the application included the Capper Carrollsburg On-the-Hill Community Development Corporation ("CDC"), the Carrollsburg Resident Council, Arthur Capper Senior Resident Council, and 20 individuals currently residing in the Capper/Carrollsburg housing.

9. David Meadows, a property owner residing at 305 K Street, S.E., which is located within the preliminary PUD boundaries and is identified for acquisition by DCHA, initially requested to appear as a party in opposition to the applications. He subsequently withdrew his request and elected to testify as a person in opposition.

10. Other persons appearing in opposition to the consolidated and preliminary PUDs included St. Paul's AUMP Church, the Committee of 100 on the Federal City ("Committee of 100"), the Capitol Hill Restoration Society, Debra Frazier on behalf of the Friends and Residents of Arthur Capper/Carrollsburg, Agnes Taylor, Olena Oliphant, Burnetta Coles, Richard Wolf, Brother Chris, Paul Pumphrey, and Amil Mohammed.

11. As a preliminary matter, the Capitol Hill Restoration Society ("CHRS") sought dismissal of the applications on the ground that they were not signed by each owner of property included in the area to be developed, as required by 11 DCMR § 2406.5. The applications include 15 private properties in the preliminary PUD application for which the owners' signatures were not obtained. DCHA intends to acquire these 15 properties through a negotiated sale or eminent domain proceedings. CHRS asserted that the lack of required signatures rendered the applications incomplete, and therefore that they should be dismissed pursuant to § 2406.3.

12. Based on the advice of the Office of the Corporation Counsel, the Commission finds that it may proceed with a preliminary PUD application involving privately owned property that a government agency intends to acquire by negotiated sale or eminent domain, because an owner's rights will not be affected by preliminary approval. However, the

second stage PUD may not be processed without the required signatures of all affected private property owners.

13. The Applicants and the D.C. Department of Housing and Community Development ("DHCD") requested a waiver of the hearing fees for the applications. Under § 3042, the Commission may grant a request from DHCD to waive the normal hearing fee to permit the construction of a low- or moderate-income subsidized housing development, defined as "a housing development that receives funding from a recognized District of Columbia or federal government housing subsidy program." In support of their request, the Applicants stated that the subject development has been awarded funding from HUD through the HOPE VI program, and DCHA is playing a major role in the development, which is itself a major component of city-sponsored efforts to create a major new center along the Anacostia Waterfront.

14. The Applicants calculated the hearing fee for the project as $50,000 for the residential portion and $77,100 for the non-residential portion ($75,300 for the office and retail component and $1,800 for a new community center), for a total of $127,100 for the PUD applications. A separate hearing fee charged for the map amendment application is $28,595. Pursuant to § 3041.5, however, in the case of an application combining two or ~~more actions, the fee charged is the greatest of all the fees computed separately; or in this~~ instance, $127,100.

15. The Commission finds that a waiver of the entire hearing fee is not appropriate, because a significant portion of the proposed PUD consists of commercial office space and market-rate housing. Waiver of the fee applicable to the residential portion (i.e. $50,000 is appropriate in light of the fact that the PUD will include 695 public housing units and 50 home-ownership units receiving funding from the Housing Choice Voucher program spread throughout the project. However, the Commission finds that waiver of the hearing fee is not appropriate with respect to the nonresidential portion of the proposed PUD, and therefore directs the Applicants to pay a hearing fee of $77,100.

16. At its public meeting on December 8, 2003, the Commission took proposed action by a vote of 4-0-1 to approve, with conditions, the applications and plans submitted into the record.

17. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by report dated January 8, 2004, concluded that the proposed first-stage and consolidated PUDs would not adversely affect the federal interests and were consistent with the Federal Elements of the Comprehensive Plan for the National Capital, except that Senior Housing Building 2 would place a blank wall above the ground floor along M Street, ~~S.E.~~, ~~an identified Special Street in the Preservation and Historic Features Element~~ of the Plan.

18. The Commission directed the Applicants to submit a revised design for the Senior Building planned for Square S-825, on the north side of M Street between 4th and 5th Streets. By submission dated February 3, 2004, the Applicants provided an alternate proposal for the M Street façade utilizing split-faced CMU material on the lower portion of the former blank wall and EIFS on the upper portion.

19. The Zoning Commission took final action to approve the application in Case No. 03-12 on January 12, 2004, by a vote of 4-0-1. The Zoning Commission took final action to approve the application in Case No. 03-13 on February 6, 2004 by a vote of 4-0-1.

The PUD Project

Overview

20. The proposed PUD is intended to replace and redevelop the Arthur Capper/Carrollsburg complex, a severely deteriorated public housing project. The new mixed-income, mixed-use development will be composed of approximately 1,650 residential units, including 707 public housing replacement units; and approximately 732,000 square feet of commercial space, of which approximately 30,000 square feet will be devoted to first-floor retail uses and the balance will be office space. Approximately 21,000 square feet of additional neighborhood retail space will be located in high-rise residential buildings along 2nd Street. The PUD site will have an aggregate density of approximately 2.21 floor area ratio ("FAR").

21. The concept for the PUD project was developed in conformance with design guidelines for the area established in conjunction with the District of Columbia Office of Planning ("OP"). Standards were created for building height and programs, building lines, and urban design to help redevelop the Capper/Carrollsburg site and the adjacent M Street corridor in a complementary, coordinated fashion.

22. The site is presently improved with the Arthur Capper Senior Building and Family Dwellings and the Carrollsburg public housing complexes for families and senior citizens. The Carrollsburg complex includes the Carroll Apartments at 410 M Street, S.E. and the Carrollsburg Dwellings at 400 L Street, S.E. The Carroll Apartments, a 60-unit high-rise facility for elderly residents, will remain. The Carrollsburg is a complex of 28 two- and three-story townhouses containing 314 units. Surrounding the Carrollsburg complex is the Arthur Capper Development, which consists of 96 townhouse units, a nine-story senior building, and the former Arthur Capper mid-rise buildings, three of which have been demolished.

23. The Generalized Land Use Map of the Comprehensive Plan has designated the area a Housing Opportunity Area to encourage affordable residential redevelopment. The redevelopment plan provides for the replacement, on a one-for-one basis, of all the public

housing units that will be demolished. Thus, there will be no diminution in the stock of available public housing units as a result of the PUD.

24. The site also includes a Department of Public Works ("DPW") facility on New Jersey Avenue and I Street, S.E., the Canal Blocks Park, the Van Ness Elementary School, and several privately owned properties in Squares 799 and 800, which DCHA intends to acquire.

Description of Surrounding Area

25. The area surrounding the PUD site is characterized by a mixture of uses. To the south and west are new commercial office buildings, the Washington Navy Yard, the site of the Southeast Federal Center, and the proposed new headquarters of the U.S. Department of Transportation. Portions of the area, particularly to the west, are underutilized and consist of vacant land or abandoned industrial or manufacturing structures. The 8th Street corridor is located to the east, a north-south axis that terminates at the Navy Yard entrance. Several medium-density commercial and industrial buildings line 8th Street, including entertainment and auto-related uses, many of which are in disrepair. The Southeast-Southwest Freeway and Virginia Avenue act as the northern boundary of the ~~site, with the Capitol Hill neighborhood lying to the north~~

Proposed Redevelopment Under the HOPE VI Program

Existing Conditions

26. The existing Arthur Capper/Carrollsburg Dwellings were constructed in the early 1940's as part of a major urban renewal effort that included the Ellen Wilson Dwellings to the north. Over the years, the public housing complex has deteriorated to a point beyond any further practical use. The properties are economically and functionally obsolete. In an effort to revitalize this residential complex into a stable, mixed-income community, DCHA sought assistance from the HOPE VI program.

The HOPE VI Program

27. The HOPE VI program requires each grant request to include a Community and Supportive Services Program ("CSSP"), which is intended to promote self-sufficiency for lower-income families. The CSSP represents $29 million ($3.5 million from the HOPE VI grant and $25,697,953 from private sources) in services to public housing and other low-income residents of the community. Services to be provided include day care, adult literacy and GED, computer training, and health care. Case management services will allow each participant to have an individual service plan devoted specifically to the participant's needs. Participation in the CSSP is a requirement for public housing

residents to gain readmittance to the community, unless otherwise exempted because of age, disability, or current full time employment.

28. The HOPE VI grant for Capper/Carrollsburg is $35 million. Because of the market value of the land, DCHA anticipates replacing all 707 public housing units slated for demolition.

29. The Applicants testified that, while the $35 million grant from the HOPE VI program is substantial, that amount alone would not be enough to replace the 707 public housing being demolished. Using a conservative estimate of $100,000 per unit as a replacement cost, total replacement would require over $70 million, roughly twice the grant amount. Therefore, the ability to leverage other public and private resources is important, not only to preserve public housing and affordability but also to establish a mixed-income community with the requisite amenities. A critical element of that leveraging is the ability to maximize the market value of the underlying land – that is, maximizing the appropriate development potential under the PUD standards of the Zoning Regulations. According to the Applicants, although the project financing is complex, the concept is simple: HOPE VI dollars, plus proceeds from the sale or lease of land, and the investment of private capital for the nonresidential uses will provide the necessary funding to ~~subsidize the one-for-one replacement of the public housing. The Applicants will use the~~ value of the land's development potential to leverage another $400 million in public and private investment.

Description of Project Components

Western Portion of Site: High-Rise Apartments and Office Building

30. Under the preliminary PUD approval process, the Applicants propose to develop the western portion of the PUD site along 2nd Street, S.E., the former location of the city canal, with high-rise rental and condominium buildings and a commercial office structure. In order to achieve the desired height for these buildings, the Applicants request a PUD-related map amendment to rezone this portion from R-5-B to CR. Square 767 to the north will be redeveloped with a six-story (65-foot) apartment building containing approximately 147 units, with 6,000 square feet of retail uses.. Immediately south in Square 768, the project will consist of an 11-story (110-foot) apartment house containing 295 units and 6,000 square feet of neighborhood-serving retail uses. A condominium building consisting of 107 units will be located in the northern half of Square 769, with 3,000 square feet of retail space. The southern portion of that same square will be improved with a 10-story office building with first-floor retail containing a total of 236,000 square feet of gross floor area.

31. The Commission questioned the appropriateness of including Square 739, which includes a portion of Reservation 17-A, and the portion of Canal Street that bisects the square, in the preliminary PUD, because use of Square 739 might have been restricted to a garbage disposal facility pursuant to a transfer of jurisdiction from the U.S. government to the District of Columbia. The Transfer of Jurisdiction plat recorded in the Surveyor's Office does not appear to place any restriction on the use of the property. However, other documents provided by the National Park Service ("NPS") indicate that the transfer was made for the purpose of allowing the District to use the property as a trash transfer site. NPS has indicated that an amendment to the transfer instrument or the execution of a new transfer will be required if the property is to be used for housing. NPS also has indicated that, subject to completion of the requisite process, NPS had no objection in concept to the uses proposed. Thus, the Commission finds that, subject to completion of appropriate documentation prior to the filing of a second-stage PUD application, the District may appropriately propose to use Square 739 for public and market-rate housing as contemplated under the preliminary PUD.

Central Portion of Site: Low-Rise Residential and Senior Buildings

32. In the center portion of the PUD site, the Applicants propose to construct three- and four-story rowhouses. Some of these units will be offered for sale and others will be made available for rent, at either market rate or at subsidized levels. Square 797 will consist of four groups of buildings totaling 47 single-family row dwellings. Square 798 will provide a total of 75 single-family rowhouses arranged in five groups. Square 824 will consist 41 rowhouses also arranged in five clusters. Square 825 will provide 57 row dwellings, and the northern half of Square 825S will include 13 town houses. All of the proposed dwellings in Squares 797, 798, 824, 825, and 825S are included in the consolidated PUD application. The remainder of the row dwellings, which will be located in the northern half of Square 800 and the northern half of Square 882, and which will total approximately 121 single-family units, were submitted for consideration under the preliminary PUD application.

33. The central portion of the site will also include two apartment complexes devoted exclusively to senior citizens. A four-story building located in the southern portion of Square 825S will add approximately 138 new units to the existing 64-unit senior building, while a four-story building in Square 880 will contain approximately 162 units. The senior building in Square 880 will also include a geriatric health clinic. Both senior buildings were submitted for review under the consolidated PUD approval process. The Applicants have begun pre-development activities for the building in Square 880 to construct that building on an expedited basis as a matter-of-right and in conformance with the existing R-5-B zoning on the site. The Applicants are proceeding on this basis in order to provide relocation units to residents displaced from the current public housing complex. Thereafter, the lot on which this structure is located will be subdivided into

two new record lots pursuant to an agreement with the U.S. Marine Corps, which owns the adjacent land in Square 880. Upon subdivision, the new senior building would exceed the R-5-B density requirements on its lot. Thus, the Applicants have included this building in the consolidated PUD proposal in order to allocate the density with other properties in the PUD and bring the building into compliance on the future, smaller lot.

East Portion of the Site: Public Uses and Commercial Office Development

34. Two office buildings will be constructed in the southern portion of Square 882 and will provide economic support for the one-for-one replacement of public housing units. Approximately 15,000 square feet of the total gross floor area of the buildings will be devoted to retail uses on the ground floor. The Applicant proposed a height of 110 feet for the commercial buildings in Square 882, which part of the preliminary PUD approval application. The Commission finds that 110 feet in height is excessive for this location, especially considering its proximity to the lower buildings along 8th Street. A maximum height of 90 feet is appropriate for commercial buildings along M Street in Square 882 to provide a transition between the lower scale of 8th Street and the higher density development along New Jersey Avenue.

~~35. The east side of 5th Street between L and M Streets in Square N853 is the site of the Van~~ Ness Elementary School, which is included in the PUD.

Canal Blocks Park

36. In coordination with DPW, the Applicants propose to improve the former canal parcels known as Reservations 17B (Square 767, Lot 829), 17C (Square 768, Lot 810), and 17D (Square 769, Lot 821). These blocks are currently used to house city school buses. The buses will be removed and the Applicants will grade and seed the land in preparation for the creation of a new urban park to support the neighborhood and serve as a link between Capitol Hill and the Southeast waterfront.

37. The Canal Park Development Association ("CPDA"), a non-profit entity authorized by Act of Congress, was established to work in a joint public/private partnership with the Government of the District of Columbia for the purpose of promoting, fundraising, designing, constructing, and maintaining the Canal Blocks Park. Current board members of CPDA include representatives of William C. Smith Co. and Spaulding and Slye Colliers on behalf of four of the nine separate owners of land contiguous to the Canal Blocks Park. Membership is open to representatives of the remaining contiguous landowners, as well as public entities actively participating in the revitalization of the District's near Southeast neighborhood. CPDA has received commitments to join the board from the JBG Companies, as developer of the U.S. Department of Transportation headquarters, and Capper/Carrollsburg Venture, LLC.

38. CPDA has received $5.46 million to date in contributions and commitments for the Canal Blocks Park. CPDA has deposited $2.5 million in funds received from Congress through the Fiscal Year 2003 Appropriations Act (P.L.108-7). The JBG Companies has pledged $2.5 million for development of the Canal Blocks Park. William C. Smith Co., Inc., in conjunction with the development of four parcels contiguous to the Canal Blocks Park, has pledged $325,000 to CPDA. Mid City Urban LLC and Forest City Enterprises, through their participation in Capper/Carrollsburg Venture, LLC, have pledged $137,000 to CPDA. The Office of Planning has committed an unspecified amount through a matching grant to hold a public design competition.

39. Several studies have been conducted for the development of a park along the former canal area, and the Applicants will work with the District and other interested parties to bring the plans to fruition. After the transfer of Square 739 from DPW to DCHA, the Applicants will also develop a mid- to high-rise residential building on this site.

Project Design

40. The PUD project was designed to achieve a high-quality composition of commercial, retail, and residential uses in a cohesive urban setting. The project fulfills the design ~~goals and objectives established by OP and the Applicants pertaining to building height~~ and programs, building lines, and urban design elements for each segment of the project (the "Guidelines").

Preliminary PUD Approval: Commercial Buildings in Squares 769 and 882

41. The Applicants' architect testified that one of the primary urban design goals for the PUD project was to continue the M Street corridor as the primary mixed-use segment of the neighborhood and of the larger district within which it is located. A key element to achieve this goal is to maintain building edges and established street walls, particularly in relation to the existing office building in Square 800, and to ensure that retail and lobby spaces meet the well-defined edges. The Guidelines recognize the importance of the intersection of 2nd and M Streets as a significant place that establishes both the termination at M Street of the former canal reservations and a gateway to the park envisioned for the canal blocks.

Preliminary PUD Approval: High-Rise Residential Buildings at the Canal Blocks

42. The Guidelines identify the Canal Park as the most significant spatial focus within the neighborhood plan. This space will serve as a open green area within the urban pattern of buildings and streets, in deference to the L'Enfant Plan. Buildings fronting on this space must be carefully designed to define both physically and spatially the former canal reservations. At the same time, the new mixed-income apartments that will border the

east side should make a transition from the high-rise intensity of M Street to a more moderate height to the north that will complement the adjacent Capitol Hill neighborhood and its rowhouse character. Consistent with these goals and objectives, the residential buildings in Squares 767, 768, and 769 were designed to respect their important location on the canal blocks through appropriate heights, building lines, façade organization, and materials. The façade of the buildings fronting on the Canal Park will be expressed in tripartite organization, with the base rising two stories in height and expressing the retail functions, the middle portion articulating the residential uses of the building, and the top two stories defining a cap to the building through cornice lines or other architectural devices. Balconies, pilasters, and other elements will be introduced to the facades of the buildings to create a three-dimensional quality. Buildings will be faced in brick, stone, concrete, metal or glass to maintain a superior architectural quality.

Preliminary and Consolidated PUD Approval: Low-Rise Residential

43. A major design objective for the low-rise residential buildings under the Guidelines is to create a cohesive urban community that reflects the diversity of architectural styles and forms found in the adjacent Capitol Hill Historic District. The low-rise buildings will incorporate the successful patterns and identifying characteristics of Washington ~~rowhouse development in the new building designs to produce recognizable but distinct~~ features for the Carrollsburg neighborhood. Constructed to heights of three and four stories, the majority of the row dwellings will be built to the front lot lines in order to maintain the street walls, with intermittent setbacks to avoid monotonous patterns. Six basic styles will be introduced throughout the development, which will correspond to the hierarchy of streets in the neighborhood.

Consolidated Approval: Senior Residential Buildings

44. The Senior Building contemplated for Square 880 will be a courtyard structure abutting Virginia Avenue, 5th Street, K Street, and the Marine Barracks parade ground. The size and scale of the building is appropriate to the many other institutional structures located north and south of Virginia Avenue.

45. The Senior Building on Square 825S is adjacent to the existing 60-foot tall senior building owned by DCHA. The addition will be 45 feet in height and will establish a transition between the 410 M Street structure and the new single-family structures to the north.

Existing and Proposed Zoning

46. The majority of the subject site is located in the R-5-B district, with a portion of Square 769 located in the C-3-C district. The R-5-B district is a moderate height and density zone that permits all types of urban residential development, including single-family

dwellings, semi-detached houses, row dwellings, and apartments. The maximum height permitted in the R-5-B district is 50 feet with no limitation on the number of stories. Residential development may achieve a maximum density of 1.8 FAR. The C-3-C district is a medium-high density commercial area designed for office, retail, housing, and mixed-use developments. Buildings may be constructed to a height of 90 feet, and achieve a density of 6.5 FAR for residential or commercial uses, with a total maximum density of 6.5 FAR for any development.

47. The Applicants requested a PUD-related map amendment to rezone from R-5-B to CR the entirety of Squares 767 and 768; the northern half of Square 769 between 2nd and 3rd Streets, beginning 145 feet north of M Street; and the southern portion of Square 882 along M Street for a depth of approximately 145 feet. The CR district is a mixed-use area designed to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. The maximum height in the CR district is 90 feet. The density for all buildings and structures on a lot may not exceed 6.0 FAR, with not more than 3.0 FAR devoted to non-residential uses. Additionally, the CR district requires provision of an area equivalent to 10 percent of the total lot area as open landscaped space available for use by the general public on a continuous basis.

Development Incentives and Flexibility

48. The Applicants request the following areas of flexibility from the R-5-B requirements and PUD standards:

    a. 0.71 FAR increase (all residential) in gross floor area over existing matter-of-right development, which is below the 3.0 FAR allowed under the PUD guidelines;

    b. aggregation of FAR and lot occupancy; and

    c. waiver of sideyard setback for one lot in Square 824.

Public Benefits and Amenities

49. The following benefits and amenities will be created as a result of the PUD project:

    a. *Housing and Affordable Housing.* The single largest benefit to the area, and the city as a whole, is the creation of a new mixed-income, mixed-use community replacing a severely distressed public housing developments. The one-for-one replacement of public housing units will maintain affordable housing opportunities, and the infusion of market-rate housing will bring middle-income families to an otherwise economically depressed area. Redevelopment of the

area, including the replacement of public housing, will complement other revitalization activities planned and underway in this area.

b. *Urban Design and Architecture.* The project includes a collection of mixed-use buildings sensitively designed to complement the surrounding large-scale commercial buildings along M Street and to respect the low-rise cohesive rowhouse character of the Capitol Hill neighborhood. The overall composition reinforces the broad and lively elements of the M Street corridor and creates a boundary-defining urban wall for the public spaces along Canal Park. Single-family and multi-family dwellings will be developed in a diversity of styles and materials selected to ensure compatibility and quality commensurate with the surrounding area. The development contains both affordable and market-rate units with no distinction in external design character between the two.

c. *Landscaping and Open Space.* Another aspect of the project of special value to the neighborhood is the clearing of land along the western edge of the site in preparation for the creation of a new urban park.

d. *Transportation Features.* The proposed PUD project meets or exceeds the off-street parking and loading requirements of the Zoning Regulations. The project includes a total of 1,645 dwelling units in single-family and multi-family configurations; a total of 1,430 parking spaces will be supplied for those units. A total of 550 off-street parking spaces will be devoted to the 732,000 square feet of commercial uses included in the project. Loading berths will be included for all multi-family and commercial uses in accordance with the Zoning Regulations, as shown on the architectural drawings. The project also includes several new roadway features: (i) a new north-south public street, to be designated as a continuation of 6th Street, S.E. will be introduced in Square 882 as a private street; (ii) a portion of L Street between the former canal reservations and 3rd Street will be re-opened; and (iii) a new private street will be created for the townhouse developments in Squares 798 and 799. The Applicants also anticipate that I Street will be extended west through Square 739 by other future development to establish the grid street system characteristic of the L'Enfant Plan. With the exception of the new 6th Street, the new streets will be dedicated for public use either by easement or as open streets on the Highway Plan. The new street patterns, together with new traffic signals and stop signs, will enhance the transportation qualities of the proposed project.

e. *Social Services and Other Uses of Special Value to the Neighborhood.* The proposed PUD will provide CSSP activities contemplated as part of the HOPE VI grant, such as day care, adult literacy, computer training, and other services aimed at helping neighborhood residents achieve self-sufficiency. The proposed PUD

also includes two senior-citizens buildings, one of which will house a geriatric health clinic.

f. *Employment and Training Opportunities.* The proposed PUD will provide a number of employment and training opportunities during construction and operation of the development. The Applicants, in partnership with the resident-based Capper Carrollsburg-on-the-Hill CDC, will program and implement Section 3 employment, training, and contracting elements in order to take full advantage of the construction, service, and operational requirements of the redevelopment. The goal of the federal Section 3 Program is to create meaningful contracting and job opportunities for minority and disadvantaged small businesses and individuals from the area being redeveloped. It is contemplated that long-term employment opportunities will accrue in the workforce development associated with the 732,000 office and retail space, and the additional 21,000 ground floor retail space along the former canal blocks. The project will provide employment training opportunities through a Local, Small and Disadvantaged Business Enterprise ("LSDBE") Agreement and a First Source Agreement.

g. *Neighborhood Oriented Retail and Service Uses.* The PUD project includes ~~neighborhood-oriented retail and service uses to support the residential~~ community. Approximately 21,000 square feet of neighborhood retail space will be located in high-rise residential buildings along 2nd Street, S.E.

50. The Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, social services, job training and employment opportunities, and transportation measures.

Compliance with PUD Standards

51. Under the PUD regulations, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." 11 DCMR § 2403.8. Given the level of project amenities and public benefits, the Commission finds that the development incentives are appropriate to increase the overall residential density by 0.71 FAR, to permit a height of 110 feet along the east side of the Canal Blocks Park and for the 250 M Street office building, to allow the aggregation of lot occupancy and density over the entire project site, and to waive the sideyard requirements for one lot.

Compliance with the Comprehensive Plan

52. The Project is not inconsistent with the Comprehensive Plan as follows:

a. The Generalized Land Use Map for the District of Columbia designates the 14-block area that is the subject of the PUD for residential and commercial land uses. The eastern portion of the site is designated for medium-density residential uses, which is characterized predominantly by multiple-unit housing and mid-rise apartment buildings but which also may include low- and moderate-density housing. The western portion of the site along 2nd and M Streets, S.E., is designated for medium high-density commercial uses, where the predominant use is a shopping and service area that generally offers the largest concentration and variety of goods and services outside the Central Employment Area. The block bounded by 5th, 6th, K, and L Streets, S.E., is designated as a District government park, recreation or open space area.

b. The PUD project is consistent with these land use categories through its provision of low, moderate-, and medium-density residential uses in the eastern two-thirds of the project site, and commercial office and retail development along 2nd and M Streets, S.E. The overall density will be 2.21 FAR. The Generalized Land Use Map designates the site as the Capper/Carrollsburg Housing Opportunity Area (Area No. 14).

c. ~~The project meets the policies of the Housing Element by stimulating a wide~~ range of housing choices through the production of new units for a variety of household types, including the extension of affordable homeownership opportunities to low- and moderate-income households and the provision of housing assistance to low- or fixed-income homeowners. The proposed PUD will not only replace obsolete, non-functional housing with modern dwellings, but will provide one-for-one replacement of public housing units demolished in connection with the redevelopment.

d. The proposed PUD fosters the Economic Element by revitalizing the M Street, S.E., corridor with commercial office space for businesses attracted to the area by the Southeast Federal Center immediately south of the site and its anticipated major tenant, the U.S. Department of Transportation. The mixed-income housing will enhance and stabilize the residential neighborhood, while the CSSP activities will provide for economic development and self-sufficiency programs that promote the economic development policies of the Comprehensive Plan to prepare its labor force with the education and occupational skills to participate effectively in the District's economy and to provide affordable, quality child care for parents to enable them to work, seek employment, complete school, and participate in job training programs.

e. The PUD project enhances and supports the Urban Design Element of the ~~Comprehensive Plan through the replacement of the existing barracks-style public~~

housing complex with a mixed-use, mixed-income community patterned on neighboring Capitol Hill. The new neighborhood plan respects features of the L'Enfant Plan, including the Cartesian street grid from 2nd to 7th Streets and M Street to Virginia Avenue, establishing a street volume and building massing in keeping with the District's urban character. The L'Enfant Plan street grid will also be enhanced by the introduction of a new public street, 6th Street north of M Street, and by beginning the transformation of the former canal right-of-way at Reservations 17 B, C, and D from their current use as a bus parking lot to a passive park. The proposed redevelopment will establish a positive image for the former distressed public housing community.

f. The proposed PUD meets the goals of the Land Use Element by eradicating urban blight created by deteriorated public housing and replacing it with higher-quality residential units of varying types in the Capper/Carrollsburg Housing Opportunity Area. The design of the proposed development will enhance and revitalize this residential segment of Ward 6, thereby stimulating new development and job opportunities.

g. The PUD fosters the policies of the Transportation Element and makes the proposed development attractive ~~in terms of access and internal~~ circulation. ~~The~~ development site is easily accessible via M and South Capitol Streets as well as other major roadways that provide access to Downtown and to the broader metropolitan region. The site is situated in close proximity to the Navy Yard Metrorail Station and along several bus routes. There are several nearby existing and planned employment centers, including the Capitol Hill area, the Navy Yard, and the proposed Southeast Federal Center. Several schools and community-serving facilities are located within the immediate area as well. Finally, the proposed development will include local-serving retail and a new community/day care center. Together these factors will significantly reduce the trip generation and related impacts of the proposed development, particularly during the morning and afternoon peak travel periods. The introduction of new private and public streets to serve the residential enclave will also help separate local traffic from through traffic within residential neighborhoods and complete segments of the street system necessary for smooth traffic flow. Sufficient parking is provided by the approximately 2,000 off-street parking spaces and approximately 480 on-street spaces proposed in the PUD area. The parking spaces will be distributed adequately to serve the projected demands for the various land uses. The roadway improvements planned for the development area will enhance vehicular and pedestrian access, circulation, and safety.

h. The PUD project is consistent with the Ward 6 Element in the following ways:

(i) The proposed PUD furthers the Ward 6 Economic Development Element through the introduction of new commercial office space and retail services along the M Street corridor to support the mixed-use neighborhood. The proposed development will also stimulate economic activity by attracting new businesses and households to the area.

(ii) The PUD project directly supports and achieves objectives of the Ward 6 Housing Element by replacing the existing severely deteriorated, obsolete public housing units at Capper/Carrollsburg with a new residential development that mirrors the variety of housing types in Ward 6. The HOPE VI project will enhance neighborhood stability through home-ownership opportunities and units geared toward a mix of income levels. The replacement of units on a one-to-one basis further achieves the goals of the Ward 6 Plan by maintaining the number of public housing units available to low- and moderate-income families.

(iii) The proposed PUD meets the objectives of the Ward 6 Transportation Element through traffic management measures that include the creation of new public and private streets to serve the residential enclaves with appropriately located traffic controls throughout the PUD site. The abundance of on- and off-street parking spaces and the close proximity of public transportation will encourage the smooth flow of traffic to and from the residential, commercial, and retail nodes of the development.

(iv) The plan and design of the proposed PUD responds to the Ward 6 Urban Design objectives through residential design derived from other structures in the vicinity so as to preserve the character of the neighborhood. The incorporation of various design elements into street elevations continues the diversity that is an integral part of Capitol Hill townhouse blocks. The design features will be complemented and enhanced by building materials, including brick and siding in a variety of colors. The new Senior Building that abuts Virginia Avenue on Square 880 is similar in mass and scale to the many institutional buildings located along its length within Capitol Hill. The articulation of the building's design is consistent with the overall architectural vocabulary of the neighborhood. Conversely, the new Senior Building along M Street, adjacent to the existing apartment building at 410 M Street, S.E., adopts a more modernist language. The careful placement of the various building types and programs ensures a compatible relationship between commercial and residential uses. The new office building at the corner of 2nd and M Streets, including approximately one-third of the new commercial space, will abut a new 110-foot residential building. Design guidelines for both buildings, as well as a public alley

that separates them, ensure an appropriate relationship between the two buildings.

The PUD includes the comprehensive reconstruction of streetscapes within the project boundaries in support of a primary urban design goal of the Ward 6 Comprehensive Plan. Improvements to existing residential streets include the replacement of existing sidewalks, trees, lights, and grass strips. Improvements also include a variety of designs for the front yard space between the sidewalks and the new rowhouses. The variety and quality of the front yard areas will endow the new streetscapes with the character typical of those found in the rowhouse neighborhoods of the Capitol Hill Historic District, which will constitute a substantial improvement over the deteriorated and institutional character of existing streets. The maintenance of a significant portion of the new front yard spaces, specifically those associated with public housing rental units, by a private management company will ensure a high standard of safety, security, and quality of appearance in the public spaces in the future. The community association for the townhouses will maintain the landscaped areas within its residential development area, thereby ensuring the attractive appearance of all segments of the PUD.

(v) The proposed PUD meets the objectives of the Ward 6 Land Use Element by replacing obsolete and severely deteriorated public housing units with modern new facilities on a one-to-one ratio, thereby maintaining the general level of residential uses and densities. The rowhouses, apartment buildings, and commercial office structures all mirror the existing heights of corresponding building types in the immediate vicinity of the project site and Ward 6 in general.

Office of Planning Report

53. By report dated July 16, 2003 and through testimony presented at the public hearing, the Office of Planning recommended conditional approval of the PUD. OP strongly supported the applications and found that the proposed PUD is not inconsistent with the Comprehensive Plan and the Generalized Land Use Map. While noting that the Map does not clearly designate the PUD areas for mixed uses, OP concluded that, when viewed as a whole, the PUD achieves the type and scale of uses the Land Use Map supports for this area. The Commission concurs in this assessment. The Generalized Land Use Map adopted as part of the Comprehensive Plan shows that most of the PUD is included in the medium-density residential land use category. The DPW site at New Jersey Avenue and I Street and the southern half of the blocks between L and M Streets and 2nd and 3rd Streets are included in the medium-high density commercial category.

The site of the recreation center is included in the parks, recreation and open space category. The Generalized Land Use Map includes the project area in a housing opportunity area. The proposed Project is consistent on an overall basis with these land use designations. The overall density for all residential uses on all the property included is 2.28 FAR, which falls between the matter-of-right levels of the R-5-B and R-5-C districts. The overall density for all retail and office uses on all the property included is 0.83 FAR, less than the matter-of-right density in the lowest density commercial zone. That density is concentrated in two locations, along the Canal Blocks Park and along M Street across from the Navy Yard.

54. OP further concluded, and the Commission finds, that the location of the two office buildings proposed for Square 882 are also not inconsistent with the Comprehensive Plan. The office buildings are logically located along the M Street corridor as a result of the commercial development that has already begun to line M Street and the proposed office development at the Southeast Federal Center.

55. OP testified that the project is otherwise not inconsistent with the major themes and elements of the Comprehensive Plan, and stated that the PUD provides an "almost textbook example" of how a PUD is supposed to function in that the PUD employs zoning incentives in certain locations while at the same time respecting the existing zoning's average density. The Commission concurs in OP assessment.

56. OP conditioned its approval on the following:

a. Vesting of the consolidated PUD prior to approval of the second-stage PUDs;

b. The Applicants' submission of a table and plans demonstrating parcel-by-parcel compliance of the consolidated PUD with the Zoning Regulations and any relief needed;

c. Clarification of the CSSP and similar funding the Applicants or other agents will provide to future PUD residents in excess of the support services currently provided to Capper-Carrollsburg residents;

d. Provision of decks with a minimum depth of six feet, instead of the proposed four-foot depth, wherever possible;

e. Completion of detailed arrangements for public access to playing fields on Reservation 19-A prior to approval of any second stage PUDs;

f. Clarification of the Applicants' direct and in-kind contributions to the Canal Blocks Park, exclusive of land value;

g. Provision of granite curbing and brick gutters for both sides of the eastern section of 2nd Street between I and M Streets, the new 3rd Place and all other new private streets, and any public streets that require reconstruction due to the impact of the PUD's development;

h. The Applicants' receipt of approval from the District Department of Transportation ("DDOT") for location of the new private street, 6th Place;

i. Provision of additional information concerning agreements with the CDC on pre-apprenticeship and other skill-building programs for neighborhood residents; and

j. Provision of 14-foot floor-to-finished-ceiling heights for all ground floor spaces programmed for retail use in the CR zone.

57. In response to OP's recommendations, the Commission finds as follows:

a. Vesting of the consolidated PUD before approval of the second-stage PUD will help ensure that the PUD does not languish. The Commission finds it appropriate to require that the Applicants not file an application for second-stage approval until the covenant for the consolidated PUD has been recorded.

b. The Applicants have provided, through the testimony of their expert in land planning and in their post-hearing submission, sufficient clarification of the parcel-by-parcel compliance of the consolidated PUD with the Zoning Regulations. The Applicants have requested flexibility from the R-5-B standards to allow for an aggregation of density and lot occupancy and a waiver of the sideyard setback for one lot in Square 824. The Commission finds this minor flexibility appropriate in order to accomplish the laudable goals of this project.

c. The Applicants provided, in their post-hearing submission dated August 14, 2003, clarification of the CSSP and similar funding in excess of the support services currently provided to Capper/Carrollsburg residents. The HOPE VI program allows allocation of up to 15 percent of the grant for CSSP activities, or in this instance $3.5 million. This amount serves to leverage additional in-kind services at a projected value of $25.7 million from 40 different organizations for services including job readiness and skilled training programs; community empowerment; business development for entrepreneur start-ups; GED attainment; youth education and recreation; homeownership; senior services; family services; regular community events; exercise and recreational programs; meal services; utility payment assistance; transportation services for senior citizens; and access to health insurance.

d. The Applicants will provide decks with a minimum depth of six feet on each public housing unit, except on certain corner units where decks are not possible. The market-rate housing will include decks with a minimum depth of four feet, except on certain corner units where decks are not feasible.

e. The Applicants have agreed to provide detailed arrangements for public access to playing fields on Reservation 19-A before the approval of any second-stage PUD.

f. The Applicants have provided clarification of the contributions to the CPDA, as described in Finding Nos. 36 and 37.

g. The Applicants' baseline streetscape section is a concrete curb and gutter, a five-foot planting strip behind the curb, and a six-foot concrete walk. Certain enhancements will be made to M Street and 2nd Place, two special streets within the PUD, where exposed aggregate concrete, concrete pavers, London pavers, or brick pavers will be used. The Applicants have committed to provide enhancements to the baseline materials should the budget allow, first to 3rd Place, and then to 3rd and 4th Streets, respectively. The Applicants will also continue discussions with DDOT for the second-stage PUD on the necessary street repair/repaving, and will replace materials in-kind as a result of any damage during construction, consistent with the DDOT standards. The Commission finds that these streetscape improvement efforts are appropriate for the proposed PUD.

h. The Commission concurs that the Applicants should, as part of their continuing discussions with DDOT, coordinate on the appropriate location for the new private 6th Place.

i. Through their post-hearing submission, the Applicants provided additional information on the pre-apprenticeship and skill-building programs for neighborhood residents to be coordinated by the CDC.

j. The Commission concurs with OP that 14-foot floor to finished ceiling heights are appropriate for all ground floor spaces in the PUD programmed for retail use in the CR zone. The Commission credits OP's testimony that retailers have consistently stated that the additional height is necessary for quality retail.

Other Government Agency Reports

58. By report dated July 14, 2003 and through testimony at the public hearings, DDOT stated its general support for the applications. DDOT concurred in the Applicants assessment of vehicle trips generated by the development and agreed that the area road network would operate at an acceptable level of service. DDOT expressed its preference that, to the extent possible, all current private streets in the project area be made public. DDOT

further stated that any new streets must be built to District specifications and the Applicants agreed to comply with this requirement.

59. DDOT further recommended that, to the extent financially possible, that the Applicants should use high-quality streetscape materials for the sidewalk, curb, gutter, tree boxes, and other public realm elements. In particular, DDOT stated that the new 3rd Place – the PUD's "main street" – should use brick sidewalks, granite curb and alley aprons, brick gutters, bluestone pavers, and other attractive elements. DDOT also recommended that the Applicants treat the existing streets in accordance to their relative importance in the development. The retail areas along the Canal Blocks, for example, warrant brick sidewalks while, in other areas of the project, brick header rows may be a lower cost alternative. DDOT concluded that its recommended improvements over the Applicants' proposed landscape plan would serve to knit the new neighborhood aesthetically into Capitol Hill.

60. With respect to the operation of specific streets within the development, DDOT stated that it had no plans at present to reconstruct and reconnect I Street between 2nd Street and New Jersey Avenue, but that the connection was not necessary for traffic operations to continue at acceptable levels. DDOT expressed a preference that any private street be dedicated as a public street, including the easternmost 2nd Street (also known as Canal Street). The Applicants stated that the proposed new 6th Street at M Street would not align with the existing 6th Street to the south by approximately 85 feet due to underground utilities. Because DDOT requires that such offsets have a minimum distance of 100 feet, this street will be private. DDOT stated that a "pork chop" shaped median at M Street would help prevent cars from making unsafe and illegal movements from 6th Street, and the Applicants agreed to institute this traffic measure.

61. DDOT concluded, and the Commission finds, that the amount of street and private parking provided for the PUD is adequate.

62. DDOT recommended that the traffic study include additional analyses of measures needed to accommodate the increased pedestrian traffic generated by the PUD project. Through their post-hearing submission dated August 14, 2003, the Applicants' traffic consultant, O.R. George & Associates, provided the requested information. The traffic consultant concluded that the existing pedestrian sidewalk and crosswalk system can adequately accommodate the projected pedestrian volumes and flow patterns. Nevertheless, the Applicants will undertake certain improvements to protect pedestrian safety, including ensuring that the area's sidewalks are in good condition and provide clear widths in the range of six feet; provide clear curb environments at the internal intersections; provide eight-foot crosswalks at all intersections instead of the recommended six-foot width; and ensure that "all-way" stop control is provided at the internal intersections. The traffic consultant concluded, and the Commission finds, that

these proposed improvements will ensure that the projected/future pedestrian volumes and flow patterns are accommodated with efficiency and safety. The improvements will also have a positive impact on the safety of other uses of the roadway and pedestrian facilities.

Contested Issues

Acquisition of Private Properties

63. The Applicants testified that, as part of the overall development plan for the PUD, 20 privately owned properties in Squares 799 and 800 are to be acquired either through a negotiated purchase or through eminent domain. Of the 20 properties, which represent approximately two percent of the total project area, nine are owner-occupied and 11 are held by absentee owners.

64. The 20 properties that are to be acquired are necessary to achieve the redevelopment plan. Square 799 will be bisected by the new 3rd Place, with houses lining both sides of the street and turning the corners to also front on K and L Streets. The full and partial acquisitions are required to accommodate the number of units programmed for the eastern half of the square and to provide rear access to the garages in those units.

65. ANC 6B testified in opposition to the acquisition of the 20 properties for the HOPE VI project. The ANC stated that the acquisition plans set a bad precedent for the overall stability of neighborhood and would force homeowners out of their community and place a financial burden on them. ANC 6B noted that the housing prices for the new replacement units might be beyond the reach of the displaced homeowners that would like to return. The ANC further urged that a "right of first refusal" to return does not guarantee that the homes would be within the financial means of the property owners without some form of guarantee from DCHA.

66. The Commission also heard testimony in opposition to the acquisition of the designated properties from David Meadows and from the Capitol Hill Restoration Society. David Meadows, the owner and resident of a rowhouse at 305 K Street, S.E., one of the properties to be acquired, testified that his house, built in 1903, had historic merit and thus should not be demolished; that DCHA presented deliberately misleading and inaccurate statements regarding the number of properties to be acquired, placing owners at a disadvantage; and that DCHA failed to demonstrate a critical need for the properties and did not explore reasonable alternatives to acquisition. The Capitol Hill Restoration Society argued against the acquisition and demolition of properties that have historic merit, which it stated should be renovated instead.

67. Paul Rowe of DCHA and Harry Sewell, on behalf of the Applicants, responded to these contentions. They stated that the project entailed considerable planning to ensure that the number of properties to be acquired was kept to the minimum necessary to proceed with the HOPE VI redevelopment plan. The Applicants stated that all affected property owners received a letter dated April 23, 2003, advising them that the subject property was to be acquired as part of the Arthur Capper HOPE VI project awarded to DCHA in October 2001, and that because federal financial assistance was involved in the project, acquisition would be governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA") of 1970, as amended. Consistent with URA requirements, the Applicants will use the results of an appraisal as the basis for determining "just compensation," defined as an amount not less than the appraised fair market value of the property. Families, individuals, businesses, or nonprofit organizations displaced as a result of the process may be entitled to relocation assistance if they are found eligible under Title II of URA.

68. The Applicants, in their Supplemental Post-Hearing Submission dated November 17, 2003, committed to explore whether more of the existing buildings can be retained in private ownership. The Commission urges the Applicants to continue to work on the design of Squares 799 and 800 with the goal of saving as much of the existing private housing as possible.

69. While recognizing the difficulties caused by the acquisition process on property owners, the Commission is required to evaluate the Applicants' proposal relative to the provisions of chapter 24 of the Zoning Regulations; its authority does not encompass the ability to limit or restrict the acquisition of properties by agencies such as DCHA. However, under the conditions of this Order, second-stage approval cannot be considered without the required signatures of all affected private property owners.

Ability of Displaced Residents to Return to the New Community and CSSP

70. Numerous residents testified in opposition to the proposed PUD based on the lack of assurances that displaced residents would be permitted to return to the new HOPE VI development. Debra Frazier, representative of the Friends and Residents of Arthur Capper/Carrollsburg, stated that the one-for-one replacement of public housing units involved income tiers that severely limited the ability of residents earning up to $20,000 per year from returning to the new community. Based on information received at a meeting two years ago, Ms. Frazier stated that only 35 percent of units would be available for that income range. The remaining 65 percent of units would be available only to residents earning at least 90 percent of the Metropolitan Statistical Area median income, or approximately $64,000. Because this far exceeds the income level of Capper/Carrollsburg residents, Ms. Frazier concluded that the vast majority of current

tenants would not be able to return to the community. Agnes Taylor and Olena Oliphant supported Ms. Frazier's comments and likewise objected to the lack of guarantees to return for existing residents and to the types of assistance available for relocation. Brother Chris, a community activist, objected to the displacement of low-income families without guarantees that those earning between $5,000 and $20,000 annually would be allowed to return to the new community.

71. At the hearing and through evidence submitted to the record, the Applicants described the relocation process and the public resources available to residents to assist in their return. To be eligible to return to the HOPE VI site, an original resident must meet certain criteria under HUD's "Family Self-Sufficiency" requirements. The primary requirement is for residents to participate in the CSSP, which helps with employment training, finding work, building assets, and eventually relocating out of public housing. Other criteria established by DCHA require good standing as an existing public housing resident, including credit-worthiness or an agreement to pay any rent in arrears.

72. According to DCHA, residents have two primary resources to accomplish relocation: (i) housing choice vouchers ("HCV"), which require residents to contribute a certain percentage of their income toward rent, with the rest subsidized through the voucher; or (ii) other public housing units. Of the 171 households being relocated during Phase I of the PUD project, 116 have elected HCVs and 55 have elected to relocate to other public housing units. None of the displaced residents will experience a reduction in their rent subsidy. In order to return to the community, the resident must either be gainfully employed or in a training program, unless otherwise exempted by age or disability. Training programs are available through the CSSP, which has been approved by HUD. DCHA testified that the CSSP is currently in the case management stage for families to be relocated during Phase I. The case management stage includes an assessment of the needs of each individual, any obstacles that might prevent a person from returning to the community, and the best means to overcome the obstacles, by providing the training or programs to address issues.

73. Several witnesses expressed concern over the adequacy of the CSSP in providing job services and helping residents re-enter the HOPE VI community. ANC 6B testified that residents are being asked to sign an agreement to abide by the terms of the CSSP without those terms being fully developed. The ANC argued that the CSSP must in place prior to the relocation of residents out of the community. The Committee of 100 urged the Commission to scrutinize the $29 million in social service benefits in the CSSP on the belief that most of that money does not constitute new contributions but is money already paid for services to which the residents are currently entitled. As such, the Committee of 100 concluded, it should not count as a benefit of the PUD.

74. The CDC expressed the desire to create a community covenant whereby the developers agree to commit to jobs for the current residents instead of just relying on the LSDBE and First Source Agreements. The CDC described the types and numbers of jobs to be created as a result of this development, stating that approximately 350 jobs are anticipated during the predevelopment and the first phase of construction with an additional 1,100 jobs for residents, primarily in the construction field, created in collaborations with other developers and employers in the area. The CDC further stated that it has already entered into an agreement with a case management firm to work with individuals and families during the relocation process to assess and identify any necessary job training or social support and link those residents with the service providers that have committed to be part of the HOPE VI process.

75. The Commission finds that the Capper/Carrollsburg HOPE VI project is unique in its scope because it calls for the one-for-one replacement of all existing public housing units. The Commission also notes that the CSSP will help maximize that opportunity by providing training and programs to overcome the obstacles that these residents and families may face. The Commission finds that the services and monies already allotted to the CSSP represent a significant project amenity and a benefit to the community as a whole, but that issues pertaining to the operational parameters of the HOPE VI program ~~and its relocation policies are properly addressed to HUD and DCHA. The Commission~~ finds that the CSSP is adequately funded and the service providers sufficiently identified to provide the type of support necessary to help residents attain gainful employment; to offer counseling, guidance, and other services to help sustain that employment; and to provide the necessary tools to help residents achieve self-sufficiency. In response to issues raised by ANC 6B, the Commission finds that the assessment phase is underway and that the CSSP is already functioning prior to the relocation of any residents.

Demolition of Recently Renovated Housing Units

76. Several witnesses in opposition to the proposed Capper/Carrollsburg HOPE VI project questioned the wisdom of demolishing public housing that was recently renovated. ANC 6B testified that less than two years ago, several buildings were renovated and rehabilitated pursuant to a court order, and the court certified that the work was completed and acceptable. David Meadows also questioned why functioning and inhabited units would be slated for demolition.

77. The Applicants responded by stating that the renovations were designed to keep the affordable units in service and habitable, but the work did not address long-term structural problems. In DCHA's judgment, ultimately concurred with by HUD through the award of the HOPE VI grant, demolition and replacement of functionally obsolete buildings was the most practical and economically feasible solution for the long term. ~~The Carroll Senior Building, being the least distressed of the existing buildings, is being~~

retained. DCHA submitted to the record excerpts from the HOPE VI grant, as well as engineer's certificates, documenting the dilapidated conditions of the buildings that qualified the property for demolition and redevelopment under the HOPE VI standards.

78. Based on this evidence of record, the Zoning Commission finds that the renovations of certain units were a temporary measure and that in order to achieve the long-term goals of affordable housing for the city, DCHA exercised its authority in determining that demolition of all but the Carroll Senior Building is necessary under the HOPE VI program.

Density and Lack of Open Space

79. ANC 6D, ANC 6B, and the Committee of 100 argued that the proposed project was too dense and did not provide enough open space. ANC 6D contended that there is already an overwhelming amount of commercial density proposed in near Southeast and Southwest. ANC 6D further noted that the number of residents would more than double, resulting in taller buildings and rowhouses without front or back yards. ANC 6D estimated that the development would result in lot coverage of essentially 100 percent with minimal parking. ANC 6D anticipated that the projected development would not be ~~able to accommodate grocery and other retail services necessary to maintain the vitality~~ of the neighborhood.

80. ANC 6B similarly objected to the lack of open space, noting that the Canal Park and Marine Barracks fields were at the edges of the development and would not compensate for the dearth of space at the heart of the residential community. ANC 6B suggested that all residential decks should be a minimum of six feet deep to help alleviate this problem. The Committee of 100 also objected to the lack of greenery, play spaces, and recreational places for family social life, and suggested a 10-percent reduction in the number of units. It further noted that the recreational opportunities at the Marine Barracks fields were not being realized, despite a Memorandum of Agreement, because events were being cancelled at the last minute.

81. In response to these assertions, the Applicants provided documentation evidencing that the proposed density of the PUD project is consistent with the density of surrounding neighborhoods. At 2.21 FAR, the overall residential density is less than 25 percent more than the density permitted in the existing R-5-B district, but still less than the 3.0 FAR allowed under the PUD guidelines. The requested density would accommodate an increase in the housing supply while replacing the same number of public housing units. Based on the Applicants' calculations, the 1,645 units over the net acreage of the site equates to approximately 75 units per net acre. This is consistent with the existing density of developments in the former Southwest Urban Renewal Area, which mixes townhouse and high-rise buildings together, including Tiber Island at 99 units per acre, Harbour Square at 71 units per acre, and Waterside Towers at 100 units per acre. The

density of the consolidated PUD, at approximately 51 units per acre, is similar to developments on Capitol Hill located in both the R-4 and R-5-B districts. Examples include Potomac Gardens at 56 units per acre, and the Lincoln Park area, which averaged approximately 47 units per acre in the 26 squares studied.

82. The Commission is persuaded by the testimony of the Applicants and by the need for a sufficient level of density to support the one-for-one replacement of the existing public housing units that the overall density and the types of housing provided are appropriate. The Commission finds that the comparison of densities of surrounding areas demonstrates that the density proposed under the preliminary and consolidated PUD applications is reasonable and will provide enough open space to support recreational and other family social activities. The Commission finds no evidence of record to suggest that that the PUD cannot thrive at a density similar to that sustained in other stable neighborhoods in the Capitol Hill and Southwest Urban Renewal areas.

Height Along M Street at Eastern End of Project

83. ANC 6B and the Committee of 100 contested the proposed height of buildings along the eastern end of M Street as too tall. They contended that, at a proposed height of 110 feet, ~~the office buildings in the 600 block of M Street would loom over the neighboring Van~~ Ness School to the west and overshadow the proposed new rowhouses to the north. ANC 6B stated the height would be inconsistent with the 8th Street Overlay, which limits height to 45 feet along 8th Street. The ANC suggested that such buildings would be more appropriately located within the boundaries of the PUD along New Jersey Avenue, which permits a height 130 feet.

84. The Commission is concerned about the height of 110 feet proposed by the Applicants for the 600 M Street office buildings in Square 882. These buildings would be located immediately adjacent, with little setback, to low-rise townhouse dwellings to the north and at the eastern limit of the project along M Street, offering no opportunity to transition to lower heights to the east. The Commission is not persuaded by the testimony of OP or the Applicants, and instead finds that a maximum height of 90 feet is appropriate in Square 882 at this location. The designs of the office buildings proposed for Square 882 will be subject to further review in a second-stage PUD application.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided ~~that the PUD project "offers a commendable number or quality of public benefits, and~~

that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated or a first-stage PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, and loading, and for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of this PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. ~~The PUD is within the applicable height, bulk, and density standards of the Zoning~~ Regulations, and the height and density will not cause a significant adverse effect on any nearby properties. Residential use is appropriate for the site, which is located within a Housing Opportunity Area. The commercial office and retail uses are also appropriate at the perimeter of the site, in close proximity to mass transit. The site of the community center is likewise appropriate, designated in the parks, recreation and open space category on the Generalized Land Use Map. The impact of the project on the surrounding area is not unacceptable. The proposed development has been appropriately designed to complement and respect existing adjacent buildings with respect to height and mass.

6. The Commission may process the preliminary PUD application involving privately owned property whose owners have not signed the application, because a government agency intends to acquire that property by eminent domain or negotiated sale, and because an owner's rights will not be affected by preliminary approval. The second-stage PUD may not be processed without the required signatures of all affected private property owners.

7. The PUD applications meet the contiguity requirements of § 2401.3.

8. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

9. The project benefits and amenities, particularly the provision of housing, affordable housing, and neighborhood-serving retail, are reasonable for the development proposed on the site. The PUD responds to the surrounding residential and commercial developments.

10. The Applications seek an increase in height and the aggregation of density and lot occupancy, as permitted by 11 DCMR §§ 2405.2, 2405.3, and 2405.4. The project benefits and amenities, particularly the provision of housing in a Housing Opportunity Area, the creation of a new urban, mixed-use mixed-income community, the one-for-one replacement of public housing units, the recreation and open space including the Canal Blocks, the employment training, and social services counseling, are all reasonable trade-offs for the requested development flexibility.

11. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.

12. Approval of the PUD and related change in zoning is not inconsistent with the Comprehensive Plan.

13. ~~The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give~~ "great weight" to the issues and concerns of the affected ANCs. As is reflected in the Findings of Fact, the Commission has carefully considered the testimony and evidence submitted by ANC 6D and ANC 6B.

14. The applications for a PUD and related map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

15. The applications for a PUD and related map amendment are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL**, consistent with this Order, of the Applications for (1) preliminary review of a Planned Unit Development; (2) consolidated review of a Planned Unit Development; and (3) a Zoning Map amendment from R-5-B to CR for certain designated portions of the Arthur Capper/Carrollsburg HOPE VI redevelopment site. The Commission waives a portion of the hearing fees for these applications, so that the Applicants are required to pay a fee of $77,100. This approval is subject to the following guidelines, conditions, and ~~standards:~~

1. The preliminary approval of the PUD shall apply to the following properties: Square 737, those portions of Lot 814 and Reservation 17A that lie south of the southern right-of-way line of I Street extended; Square 799, Lots 20, 27, 28, 29, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 803, 805, 807, 808, 809, 816, 818, 819, 825, 826, and 827; Square 800, Lots 25, 26, 27, and 28; Square 824, Lots 37, 38, and 39; Square N853, Lot 809; Square 880, Lot 24; Square W881, that part of Lot 800 within 132 feet of 5th Street; Square 882, Lot 76; and all of Squares 739, 767, 768, 769, 797, 798, 825, and S825.

2. The consolidated approval of the PUD shall apply to the following properties: Square 824, Lots 37, 38, and 39; Square S825, Lots 31, 32, and 33; Square 880, Lot 24; and all of Squares 797, 798 and 825.

3. A PUD-related map amendment shall rezone the following properties from R-5-B to CR upon completion of the second-stage approval of the PUD: Square 769, that portion lying more than 145 feet from the northern right-of-way line of M Street (including a portion of Reservation 17D); Square 882, that portion lying south of the midpoint of the Square; and all of Squares 767 and 768 (including Reservations 17B and C).

4. ~~The second-stage applications for approval of the PUD shall be based on the plans~~ prepared by Torti Gallas and Partners, dated May 27, 2003, marked as Exhibit No. 19 in the record of Case No. 03-12, including the revisions from the Supplemental Post-Hearing Submission dated November 12, 2003 to include the property of the Van Ness Elementary School (the "Preliminary Plans"), as modified by the guidelines, conditions and standards herein.

5. The project in its entirety shall include a maximum of 1,645 residential units, a maximum of 702,000 square feet of gross floor area of office space, a maximum of 51,000 square feet of gross floor area of retail space, and a community center including approximately 18,000 square feet of gross floor area. The distribution of uses and densities shall be as shown on the Site Plan Development Data, Sheet S-3.1 of the Preliminary Plans.

6. A minimum of 695 of the residential units shall be devoted to public housing, including 300 units in the two senior buildings. A minimum of 50 units shall be home-ownership Section 8 units under the HUD program.

7. The overall maximum permitted residential density shall be 2.21 FAR across the project as a whole, for a maximum permitted gross floor area of 2,092,081 square feet, including the community center. The overall maximum permitted office and retail density shall be 0.80 FAR across the project as a whole (1.87 FAR based on the land area to be zoned C-3-C and CR), for a maximum permitted commercial gross floor area of 753,000 square

feet. The project shall also include the density currently contained on the Van Ness Elementary School site in Square 853N.

8. Except for roof structures, the maximum permitted heights shall be as follows:

   a. For the office buildings in Square 769: 110 feet;

   b. For the office buildings in Square 882: 90 feet;

   c. For the apartment buildings in Squares 768 and 769: 110 feet;

   d. For the apartment building in Square 739: 130 feet;

   e. For the apartment building in Square 767 and the existing senior apartment building in Square 825: 65 feet;

   f. For the senior apartment building in Square 880: 50 feet;

   g. For the remaining residential buildings: 45 feet;

   h. ~~For the community center building: 25 feet; provided that:~~

   i. Roof structures may exceed the maximum permitted building height up to a maximum of 18 feet, 6 inches above the roof on which they are located, in accordance with the provisions of the Zoning Regulations.

9. The overall lot occupancy for the residential buildings in the project shall not exceed 54 percent.

10. The design of buildings in the project shall comply with the Urban Design Guidelines set forth in the Preliminary Plans.

11. The project shall include a minimum of 1,980 off-street parking spaces. The distribution of the spaces shall be as shown on the Parking Plan, Sheet T-3.0 of the Preliminary Plans.

12. Landscaping treatment shall be as shown on Sheet L-1.0 of the Preliminary Plans.

13. Outdoor decks having a minimum width of 6 feet shall be provided for all public housing units in Squares 797, 798, 799, 800, 824, 825, 825S, and 882 that have decks, as shown on Exhibit 9 of the Applicants' Post-Hearing Submission, marked as Exhibit 61 of the Record in Case No. 03-12 (the "Post-Hearing Submission").

14. At least 20 percent of the market rate townhomes shall be provided with low wrought iron fences in public space to define a front yard for children or personal recreation space.

15. The Applicants shall provide a minimum floor height of 14 feet in those areas designated for first-floor retail use.

16. The Applicants shall use their best efforts to reach agreement with the U.S. Marine Corps on the operational details for community use of the playing fields on Reservation 19. The Applicants shall submit a copy of the agreement with the filing of the first second-stage application.

17. Prior to the issuance of the building permit for the office building at 250 M Street, S.E. (in Square 769), Square 769, LLC shall contribute $46,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.

18. Prior to the issuance of the building permit for the 600 M Street, S.E. office buildings, the Capper/Carrollsburg Venture, LLC shall contribute $137,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.

~~19.~~ ~~Prior to the issuance of the first certificate of occupancy for any of the residential~~ buildings facing the Canal Blocks Park, the Applicants shall clear the portions of Squares 767, 768, and 769 (Reservations 17B, C, and D) to be used for the Canal Blocks Park of all other uses, shall bring the site to rough level finished grade, and shall plant the site with grass.

20. The Applicants shall file an application for a building permit for the community center building in Square W881 (also known as Reservation 19) by July 1, 2005, subject to review by the National Park Service of the proposed uses. Plans shall be submitted to the Zoning Commission as part of a second-stage application with sufficient lead time to allow this deadline to be met. Construction shall start on the community center no later than 180 days after the issuance of the building permit.

21. The Applicants shall carry out the Community and Supportive Services Program, a summary of which is included as Exhibit 5 in the Applicants' Post-Hearing Submission.

22. The Applicants shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. The Applicants shall provide information regarding available jobs created by the project to the Capper/Carrollsburg on the Hill Community

Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.

23. The Applicants shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing District of Columbia residents for at least percent fifty-one (51%) of the jobs created by the PUD project. The Applicants will give special consideration for hiring of residents from the Near Southeast community. The Applicants shall provide information regarding available jobs created by the project to the Capper/Carrollsburg on the Hill Community Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.

24. The properties in the consolidated PUD shall be subject to the following additional guidelines, conditions, and standards:

a. The consolidated PUD shall be developed in accordance with the plans prepared by Torti Gallas and Partners and the Lessard Architectural Group, dated May 27, 2003, marked as Exhibit No. 17 in the record of Case No. 03-12 (the "Consolidated Plans"), as modified by the guidelines, conditions, and standards herein.

b. Landscaping, streetscape, and exterior lighting shall be as shown on the Consolidated Plans. Landscaping, streetscape, and lighting improvements to public space shall be in accordance with the Consolidated Plans and as approved by the Public Space Division of DDOT. The Applicants, their successors, or a community association shall maintain all landscaping, streetscape, and lighting improvements in good condition.

c. The Applicants shall have flexibility with the design of the consolidated PUD in the following areas:

(i) To increase or decrease the overall number of units by no more than five percent (5%);

(ii) To rearrange the unit types and mix within each square and to reallocate unit types from one square to another, provided that the design for each square and the overall consolidated PUD is consistent with the Urban Design Guidelines in the Preliminary Plans;

(iii) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways,

mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the buildings;

(iv) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and

(v) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the building code or that are otherwise necessary to obtain a final building permit.

d. No building permit shall be issued for the consolidated PUD until the Applicants have individually recorded covenants in the land records of the District of Columbia, between the owners and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenants shall bind the Applicants and all successors in title to construct on and use the property in accordance with this order or amendment thereof by the Zoning Commission.

e. Notwithstanding Condition 24d, above, Senior Building No. 1 (in Square 880) may proceed as a matter of right if it meets all the requirements of the R-5-B district applicable to the lot existing at the time the building permit is issued. Upon recordation of the covenant required by Condition 24d, above, for Square 880, the lot may be subdivided as set forth in the Consolidated Plans.

f. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicants have filed copies of the covenants with the records of the Zoning Commission.

g. The consolidated PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, the first application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction on the first building shall begin within three years of the effective date of this Order.

25. An individual Applicant shall be responsible for carrying out those conditions of this Order that are applicable to each specific property and shall not be responsible for the obligations or requirements of the other Applicants.

26. Any application for second-stage approval of the PUD shall include the signature of all owners of the property involved.

27. The second-stage approval may be requested in one or more applications. If there is to be only one second-stage application, that application shall be filed within 18 months of the effective date of this Order. If there is to be more than one second stage application, the first second-stage application shall be filed within 18 months of the effective date of this order and that application shall include a phasing plan for the remaining applications. Approval of the first-stage application shall be for a period of four years from the effective date of this Order.

28. No application for second-stage approval shall be filed until the Applicants have recorded the covenants required by the Regulations and Condition 24d of this Order for the consolidated PUD.

29. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place ~~of residence or business. Sexual harassment is a form of sex discrimination that is also~~ prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

Vote of the Commission taken at its public meeting held on January 12, 2004, to approve, subject to conditions, the application for consolidated PUD approval in Case No. 03-12 by a vote of 4-0-1 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

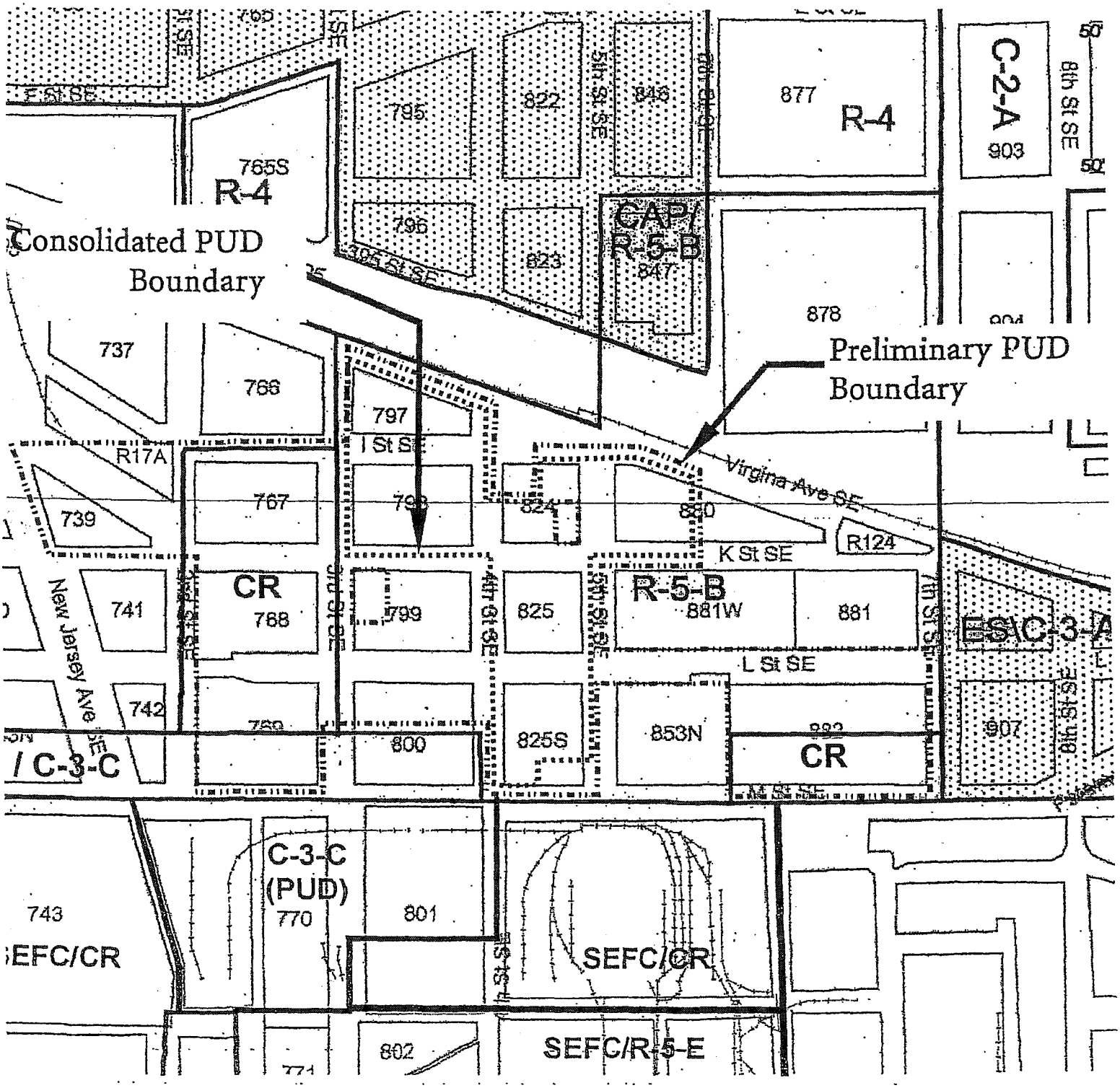
Vote of the Commission taken at its public meeting held on February 6, 2004, to approve, subject to conditions, the application for preliminary PUD approval in Case No. 03-13 by a vote of 4-0-1 Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

This Order was adopted by the Zoning Commission at its public meeting on February 6, 2004, by a vote of 4-0-1 Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on OCT 0 8 2004.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning



yland 20910 301.588.4800

MAY 9, 2005
DESCRIPTION OF
SQUARE 797
SUBDIVISION BOOK 137 PAGE 008
DISTRICT OF COLUMBIA

Being all of Lots 54, 55, 56, 57, 58 and 59 in Square 797 in a subdivision recorded in Subdivision Book 137 at Page 008 among the records of the Surveyor for the District of Columbia.

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VIKA Incorporated
20251 Century Boulevard, Suite 400 ■ Germantown, MD 20874 ■ (301) 916-4100 ■ Fax (301) 916-2262
Mclean, VA ■ Germantown, MD ■ Leesburg, VA

MAY 9, 2005
DESCRIPTION OF
SQUARE 798
SUBDIVISION BOOK 113 PAGE 033
DISTRICT OF COLUMBIA

Being all of Lots 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 in Square 798 in a subdivision made by the Alley Dwelling Authority for the United States Government and recorded in Subdivision Book 113 at Page 033 among the records of the Office of the Surveyor for the District of Columbia.

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MAY 9, 2005
DESCRIPTION OF
SQUARE 825
SUBDIVISION BOOK 113 PAGE 033
DISTRICT OF COLUMBIA

Being all of Lots 47, 48 and 49 in Square 825 in a subdivision made by the Alley Dwelling Authority for the United States Government and recorded in Subdivision Book 113 at Page 033 among the records of the Office of the Surveyor for the District of Columbia.

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MAY 9, 2005
DESCRIPTION OF A PORTION OF
SQUARE 824
SUBDIVISION BOOK 113 PAGE 033
DISTRICT OF COLUMBIA

Being all of Lots 37, 38 and 39 in Square 824 in a subdivision made by the Alley Dwelling Authority for the United States Government and recorded in Subdivision Book 113 at Page 033 among the records of the Office of the Surveyor for the District of Columbia.

G:\DATA\6001-8000\6655\Legal Descriptions\LglDesc.Lots 37, 38 & 39 Square 824.doc

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MAY 9, 2005
DESCRIPTION OF A PORTION OF
SQUARE SOUTH OF SQUARE 825
SUBDIVISION BOOK 113 PAGE 033
SUBDIVISION BOOK 141 PAGE 099
DISTRICT OF COLUMBIA

PART 1

Being all of Lots 31 and 32 in Square South of Square 825 in a subdivision made by the Alley Dwelling Authority for the United States Government and recorded in Subdivision Book 113 at Page 033 among the records of the Office of the Surveyor for the District of Columbia.

PART 2

Being all of Lot 33 in Square South of Square 825 in a subdivision made by the National Capital Housing Authority of the United States of America and recorded in Subdivision Book 141 at Page 099 among the records of the Office of the Surveyor for the District of Columbia.

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AUGUST 16, 2004
DESCRIPTION OF A PORTION OF
LOT 25 SQUARE 880
SUBDIVISION BOOK 196 PAGE 088
(TAXED AS LOT 817)
DISTRICT OF COLUMBIA

Part of Lot 25, Square 484, per plat recorded in Subdivision Book 196, page 088, among the records of the Office of the Surveyor for the District of Columbia and being more particularly described as follows:

Beginning for the same at a point marking the southwesterly corner of said Lot 25, said point also being at the intersection of the east line of 5th Street S.E. (100 feet wide, varies) and the north line of K Street S.E. (80 feet wide, varies); thence leaving the north line of K Street S.E. and running with the east line of 5th Street S.E.

1. Due North, 235.00 feet to a point marking the northwest corner of Lot 25; thence leaving the east line of 5th Street S.E. and running with the south line of I Street S.E. (90 feet wide, varies)

2. Due East, 52.00 feet to a point on the south line of Virginia Avenue S.E. (160 feet wide, varies); thence running with said south line of Virginia Avenue S.E.

3. South 70° 20' 10" East, 167.97 feet to a point; thence leaving said south line of Virginia Avenue, S.E. and running so as to cross and include a portion of Lot 25

4. Due South, 178.47 feet to a point on the aforesaid north line of K Street S.E.; thence running with said north line of K Street S.E.

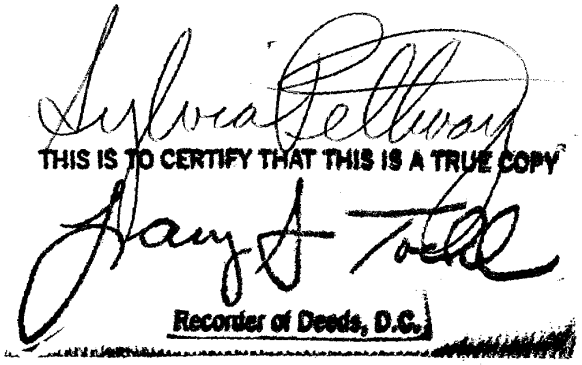
5. Due West, 210.17 feet to the point of beginning containing 44,918 square feet or 1.03118 acres of land

Doc# 2005065131 Fees:$383.50
05/12/2005 10:38AM Pages 53
Filed & Recorded in Official Record
WASH DC RECORDER OF DEEDS LARRY TOD

RECORDING	$	377.
SURCHARGE	$	6.

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THIS IS TO CERTIFY THAT THIS IS A TRUE COPY
Recorder of Deeds, D.C.

MAY 12 2005