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September 18, 2008

HAND DELIVERY

District of Columbia Zoning Commission
441 4th Street, NW
Second Floor
Washington, DC 20001

03-12G/13A

Re: Request for Extension of Time - Zoning Commission Order No. 03-12/03-13, as amended by Z.C. Order No. 03-12A/03-13A

Dear Members of the Zoning Commission:

On behalf of Capper/Carrollsbury Venture, LLC, together with the District of Columbia Housing Authority ("DCHA"), collectively the "Applicant" in the above-referenced planned unit development ("PUD"), this letter serves as a request for an extension of the first-stage approval and phasing of the overall PUD, and for an extension of the time period required to file a building permit for the construction of the community center in Square 881W, all of which were approved pursuant to Z.C. Order No.03-12/03-13, as amended by Z.C. Order No. 03-12A/03-13A. A completed Form 107 (Tab A) and a check in the amount of \$400.00 made payable to the D.C. Treasurer for the requisite filing fee pursuant to Section 3040.5 of the Zoning Regulations are also enclosed.

A. Factual Background

Pursuant to Z.C. Order No.03-12/03-13, the Commission granted preliminary and consolidated approval of a PUD for property located in the Southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th on the east, Virginia Avenue on the north, and M Street on the south. The PUD, generally known as the Capper/Carrollsbury redevelopment, includes 15 squares, and was approved to include 1,645 residential units, 702,000 square feet of office space,

ZONING COMMISSION
District of Columbia

CASE NO.

03-12G/13A

EXHIBIT NO.

13

51,000 square feet of retail space, and a residential density of 2.34 FAR and 2,138,431 square feet of gross floor area across the project as a whole. A copy of Z.C. Order No.03-12/03-13 is attached hereto as Tab B. Condition No. 27 of Z.C. Order No.03-12/03-13 provides that approval of the first-stage application shall be for a period of four years from the date of Z.C. Order No. 03-12/03-13, which became effective on October 8, 2004. The first-stage approval therefore expires on October 8, 2008.

Pursuant to Z.C. Order No. 03-12A/03-13A, the Commission granted second-stage approval for portions of the project granted preliminary approval pursuant to Zoning Commission Order 03-12/03-13, including the community center, and also modified portions of the parking requirements for the consolidated PUD approval. A copy of Z.C. Order No. 03-12A/03-13A is attached hereto as Tab C. Condition No. 5 of Z.C. Order No. 03-12A/03-13A provides that the Applicant must file a building permit application for the community center within two (2) years from the issuance of Z.C. Order No. 03-12A/03-13A and must start construction of the community center within three (3) years of the date of final approval of Z.C. Case Nos. 03-12A and 03-13A. Z.C. Order No. 03-12A/03-13A became final and effective on September 15, 2006. In addition, Condition No. 7 of Z.C. Order No. 03-12A/03-13A provides that applications for second-stage approvals for the developments in Squares 739, 767, 768, 769, and 882 must be filed by October 31, 2008.

However, as discussed in more detail below, due to the phasing of the development and market demands, as well as the Applicants desire to link the permitting and construction of the community center to the completion of an adequate number of residential units, the Applicant is seeking the following:

- (1) an extension of Condition No. 27 of Z.C. Order No.03-12/03-13 to provide that the first-stage application is valid for an additional period of five years from the effective date of any order regarding this application;
- (2) an extension of Condition No. 5 of Z.C. Order No. 03-12A/03-13A to provide that the Applicant must file a building permit application for the community center by January 1, 2011, and must start construction of the community center by January 1, 2012; and
- (3) an extension of Condition No. 7 of Z.C. Order No. 03-12A/03-13A to provide that applications for second-stage approvals for the remaining developments in Squares 739, 767, and 768 must be filed by December 31, 2013.

B. Discussion of Request

Section 2408.10 of the Zoning Regulations authorizes the Zoning Commission to extend the time periods set forth in Section 2408.8 (two year requirement to file for a building permit) and Section 2408.9 (three year requirement to begin construction), provided: (a) the extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond; (b) there is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission's justification for approving the original PUD; and (c) the applicant demonstrates that there is good cause for such extension, as provided in §2408.11. The Zoning Regulations define "good cause shown" in §2408.11 and includes a number of factors, including any "other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order."

The Applicant has served this request for extension of time on all parties to the initial PUD application, allowing them the required time period to respond. Moreover, the Applicant has good cause for requesting the extensions, since section 2408.11(c) supports the grant of an extension of PUD for any reasonable condition or factor beyond the control of the Applicant which has an adverse impact on the Applicant's ability to proceed with the project in the time frames set forth in the applicable PUD order.

The extensions are being requested in order to enable the Applicant to continue moving forward with this redevelopment project at a pace consistent with market demands. The Applicant remains committed to moving forward with the project and fully complying with the obligations imposed as part of the PUD approval. Moreover, the Applicant has been proceeding diligently with the prior phases of this redevelopment and has taken the following actions since the PUD was initially approved:

- Recorded the PUD covenant required pursuant to Condition No. 28 of Z.C. Order No.03-12/03-13;
- Completed construction, opened and is operating the 182-unit senior building in Square 880;
- Completed construction, opened and has leased the 138-unit multi-family building in Square 825S;

- Obtained second-stage approval for residential buildings in Squares 799 and 800, which includes 93 residential units, as well as the community center building (See Z.C. Order No. 03/12A/03-13A);
- Processed and recorded a number of subdivision and assessment and taxation plats for Squares 797, 824, 825, and 825S;
- Completed construction drawings, applied for, and obtained building permits for the 160 residential units to be constructed on Squares 797, 824, 825 and 825S;
- Completed the administrative and legislative process for closing alleys in Squares 798, 799, 824, dedicating streets in Squares 767, 768, 769, 798, 799, and recorded the required alley closing plats and covenant;
- Obtained approval to use portions of Squares 767, 768 and 882 for the provision of temporary surface parking accessory to the Ballpark (See Z.C. Order No. 03-12E/03-13E);
- Obtained second-stage approval, and subsequent modifications, for the 250 M Street office building located in Square 769 (See Z.C. Order No. 03-12C/03-13C); and
- Filed an application for second-stage review and approval to construct the multi-family dwelling buildings in Squares 769 and 882, which include 360 units, and the office building on the southern portion of Square 882.

Notwithstanding these diligent efforts, due to changes in the economy and residential housing market conditions, combined with the increasing difficulty in obtaining construction financing and mortgages for future residents, there is no practical way for the Applicant to complete all of necessary steps required for preparation of plans, the filing of second-stage applications and the securing of approvals for development of the remaining 1,124 residential units included in Squares 739, 767, 768, 769 and 882 within the time frames established pursuant to Condition No. 27 of Z.C. Order No.03-12/03-13 or Condition No. 7 of Z.C. Order No. 03-12A/03-13A. Moreover, given current market conditions, it is unlikely that the Applicant, will be able to secure financing for, or that the market will be able to absorb, the delivery of over 1,124 residential units within the timeframes set-forth in the orders.

Moreover, with respect to the community center, the Applicant is seeking an extension of Condition No. 5 of Z.C. Order No. 03-12A/03-13A in order to link the permitting and construction of the community center to the completion of an adequate number of residential units that can take advantage of the facility. The Applicant anticipates that completion of construction at the end of 2010 of the first

phase of townhomes included in the PUD will provide a sufficient community to generate demand for the community center. Thus, the Applicant is seeking approval to file a building permit application for the community center by January 1, 2011 and to start construction by January 1, 2012.

The Applicant believes that, pursuant to Section 2408.12 of the Zoning Regulations, the Zoning Commission can find that a hearing is not necessary for this extension request since there are not any material factual conflicts generated concerning the Applicant's "good cause" as outlined above. The only other party to this application was Advisory Neighborhood Commission ("ANC") 6D, and the Applicant has served a copy of this request on ANC 6D. There is no dispute to the facts that: (1) the Applicant has proceeded in good faith with moving forward with the various phases of the overall development; (2) there is no practical way for the Applicant to file second-stage applications and secure the necessary approvals for development of the remaining 1,124 residential units included in Squares 739, 767, 768, 769 and 882 within the timeframes established pursuant to the orders; (3) that there are significant impediments in the market place to proceeding with a residential project at this time; or (4) that the Applicant has yet to deliver an adequate number of residential units to take advantage of, and offset construction costs for, the community center. Thus, there cannot be any material factual conflicts generated concerning any of the criteria set by which the Zoning Commission is required to consider this request.

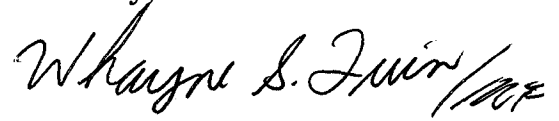
C. Conclusion

In light of this demonstration of good cause and for the reasons stated herein, the Applicant respectfully requests that the Commission approve:

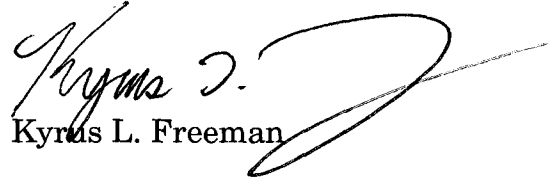
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- (2) an extension of Condition No. 5 of Z.C. Order No. 03-12A/03-13A to provide that the Applicant must file a building permit application for the community center by January 1, 2011, and must start construction of the community center by January 1, 2012; and
- (3) an extension of Condition No. 7 of Z.C. Order No. 03-12A/03-13A to provide that applications for second-stage approvals for the remaining developments in Squares 739, 767, and 768 must be filed by December 31, 2013.

Thank you for your attention to this matter, and we look forward to the Commission's consideration of this matter at the Commission's October 20, 2008 public meeting.

Sincerely,

A handwritten signature in cursive script that reads "Whayne S. Quin" followed by a large, stylized flourish.

Whayne S. Quin

A handwritten signature in cursive script that reads "Kyrus L. Freeman" followed by a large, stylized flourish.

Kyrus L. Freeman

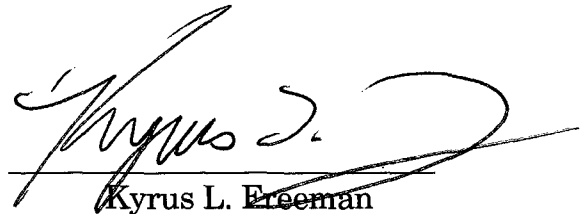
CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2008, a copy of the Applicant's Request for Extension of Time, Zoning Commission Order No. 03-12/03-13, as amended by Z.C. Order No. 03-12A/03-13A, was served via hand delivery on the following:

Steve Cochran
D.C. Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Advisory Neighborhood Commission 6D
1501 Half Street, SW
#22
Washington, DC 20024

Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E.
Washington, DC 20003



Kyrus L. Freeman