

Chart Summarizing Conditions of Zoning Commission Orders

Condition	Compliance
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.	This condition does not require any action by the Applicant.
2. The consolidated approval of the PUD shall apply to the following properties: Square 824, Lots 37, 38, and 39; Square S825, Lots 30, 31, 32, and 33; Square 880, Lot 24; and all of Squares 797, 798 and 825.	This condition does not require any action by the Applicant.
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).	This condition does not require any action by the Applicant.
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.	The plans submitted herewith are based upon the Preliminary Plans, except as modified hererin.

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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.	The project includes 171 residential units in the northern portion of Square 769 and 189 residential units in the northern portion of Square 882. The Applicant is seeking flexibility to increase the overall maximum number of units from 1,645 to 1,953 in order to meet the demand for additional units throughout the project. The project also includes 483,880 square feet of office space in the office building located in the southern portion of Square 882, which is within the 702,000 square feet of gross floor area of office space provided for the entire project. The residential building in the northern portion of Square 769 includes 4,090 square feet of retail space and the office building in the southern portion of Square 882 includes 15,000 square feet of retail space, which total is within the overall maximum of 51,000 square feet of gross floor area of retail space provided for the entire project. The distribution of uses and densities is generally consistent with that as shown on the Site Plan Development Data, Sheet S-3.1 of the Preliminary Plans, except as specifically discussed herein.
6. A minimum of 695 of the residential units shall be devoted to public housing, including 162 units in Senior Building 1 devoted exclusively to senior public housing units and the building constructed in the northern portion of Square 825S devoted to both senior housing and workforce public housing units for households earning between 30% and 60% of the Area Median Income. A minimum of 50 units shall be home-ownership Section 8 units under the HUD program. In addition, the Applicant shall provide 70 parking spaces for the building by taking the following measures: a. Permanently reserving thirty-three (33) 24-hour spaces in the building formerly known as Senior Building 2 in Square 825S for the exclusive use of residents of that building or their guests; b. Reserving, on an interim basis until parking noted in Points "c and d", below, can be provided, no fewer than thirty-seven (37) 24-hour parking spaces on surface parking lots to be located on Squares 767, 768 and/or 769 (land owned by the applicant) for the exclusive use of	This application includes 54 residential units devoted to public housing. Condition 6(a) is not applicable to this application. With respect to conditions (b), (c), (d) and (e), the Applicant is seeking flexibility to remove these requirements since the amount of parking provided for the residential building in Square 825S (formerly known as "Senior Building 2") is sufficient to meet the actual demand for that building.

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residents of the building formerly known as Senior Building 2 or their guests; c. Reserving on a permanent basis, twenty-one (21) 24-hour spaces within three blocks of the subject building for the exclusive use of residents of the building formerly known as Senior Building 2, or their guests; d. Entering into a phased, shared-parking arrangement with office buildings in Squares 769 and/or 882 to provide no fewer than sixteen (16) parking spaces, between the hours of 5:30 p.m. and 8:30 a.m. and 24 hours on federal holidays and weekends, for the exclusive use of residents of the building formerly known as Senior Building 2, or their guests; and e. Provide a minimum of 2 car sharing spaces within 3 blocks of the subject building, and enter into an agreement with a car-sharing provider to offer membership at discounted rates to occupants of the building.	
7. The overall maximum permitted residential density shall be 2.34 FAR across the project as a whole, for a maximum permitted gross floor area of 2,138,431 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.	The residential portion included in this phase of the project includes 356,250 square feet of gross floor area, which is within the 2.34 FAR and 2,138,431 square feet of gross floor area permitted for the project as a whole. The office portion of this phase of the project includes 483,880 square feet of gross floor area, and the retail portion includes a total of 15,000 square feet of gross floor area, which is within the permitted 0.80 FAR and 753,000 square feet of commercial gross floor area across the project as a whole.

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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.	This application includes the office buildings identified in subpart (b) and the residential buildings identified in subparts (c) and (g). The Applicant is seeking flexibility to construct the office building to a maximum height of 92 feet, and the roof structure(s) do not exceed 18 feet, 6 inches above the roof on which it is located. The Applicant is also seeking flexibility to construct the residential building in the northern portion of Square 882 to a maximum height of 60 feet, and the roof structure(s) do not exceed 18 feet, 6 inches above the roof on which it is located. The residential building in the northern portion of Square 769 will be constructed to a maximum height of 110 feet, and the roof structure(s) do not exceed 18 feet, 6 inches above the roof on which it is located.
9. The overall lot occupancy for the residential buildings in the project shall not exceed 54 percent.	The overall lot occupancy for the residential buildings in the project does not exceed 54%.
10. The design of buildings in the project shall comply with the Urban Design Guidelines set forth in the Preliminary Plans.	The design of the office and residential buildings included in this application comply in substantial part with the Design Guidelines, except as shown on the plans filed with this application.
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. The residential portion of the project shall include a minimum of 1,241 off-street parking spaces.	This phase of the project includes 589 off-street parking spaces. The Parking Plan included in the Preliminary Plans indicates that the office building in Square 882 would provide 400 spaces and that the residential building in Square 769 would provide 107 spaces. However, as shown on the plans submitted with this application, the Applicant is seeking flexibility to provide 284 spaces for the office building in Square 882.
12. Landscaping treatment shall be as shown on Sheet L-1.0 of the Preliminary Plans.	As shown on the Architectural Plans and Drawings attached as <u>Exhibit A</u>, the Applicant complies with this provision.

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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").	There are no outdoor decks provided for the public housing units in Square 882.
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.	This condition does not require action by the Applicant.
15. The Applicants shall provide a minimum floor height of 14 feet in those areas designated for first-floor retail use.	As shown on the Architectural Plans and Drawings filed with the application, the first-floor retail uses in Squares 769 and 882 have a minimum floor height of 14 feet for the 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.	The district has executed an agreement with the U.S. Marine Corps on the operational details for community use of the playing fields on Reservation 19.
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.	The condition is not applicable to this application.
18. Prior to the issuance of the building permit for the 600 M Street, S.E. office buildings, the Capper/Carrollsborg Venture, LLC shall contribute \$137,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.	The Applicant will contribute \$137,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park, prior to the issuance of the building permit for the office building at 600 M Street, S.E.

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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.	Prior to the issuance of the certificate of occupancy for the residential building to be constructed in Square 769, the Applicant will 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, will bring the site to rough level finished grade, and will plant the site with grass.
20. The Applicants shall file an application for a building permit for the community center within two (2) years from the issuance of the order in Z.C. Case Nos. 03-12A and 03-13A and shall 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. The Applicant is thus required to file an application for a building permit for the community center by September 15, 2008 and to start construction of the community center by September 15, 2009. However, the Applicant is seeking to modify this condition to provide that the Applicant must file an application for a building permit for the community center by January 1, 2011, and must start construction of the community center by January 1, 2012.
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.	DCHA is in the process of carrying 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/Carrollsborg on the Hill Community Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.	The Applicant will comply with this condition.

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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/Carrollsborg on the Hill Community Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.	The Applicant will comply with this condition.
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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	This application does not include any of the properties approved in the consolidated PUD approval, and this condition is not applicable to this application.
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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.	Each individual Applicant will comply with the requirements of the order as set forth herein as applicable to each individual Applicant.

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26. Any application for second-stage approval of the PUD shall include the signature of all owners of the property involved.	The property that is the subject of this application consists of Square 882 and the northern portion of Square 769, which are all owned by the District of Columbia Housing Authority, which has signed the application form for the second-stage approval of the PUD included herein. The Applicant thus complies with this condition.
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.	This application is the third of a series of second-stage applications to be filed. Therefore, this application is in compliance with this condition. However, due to the phasing of the development, the Applicant is seeking flexibility to extend approval of the first-stage application granted pursuant to Z.C. Order No.03-12/13-13 for an additional period of five years from the effective date of the order regarding this application. The Applicant is also seeking flexibility to file the remaining applications for final approval for the high-rise apartments in Squares 767, 768, and 739 by December 2013.
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.	The covenants required by the Regulations and Condition 24d of the consolidated PUD have been recorded. Therefore, the Applicant is in compliance with this condition.

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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 <u>et seq.</u>, (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.	The Applicant will comply with this condition.
30. <i>Z.C. Order No. 03-12E/03-13E</i> – Notwithstanding anything to the contrary contained herein, Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 882 may be used as a temporary surface parking lot accessory to the Ballpark as permitted by 11 DCMR § 2110 of the Zoning Regulations through and until April 1, 2013.	This condition does not require any action by the Applicant.

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<i>31. Z.C. Order No. 03-12A/03-13A – Condition No. 7:</i> The second-stage approval of the remaining portions of the project will be filed in phases. Phase II will consist of the M Street office building, which may be built in two (2) sub-phases, along with the residential development in Square 882. The 250 M Street office building with first-floor retail in Square 769 will be Phase III of the development. Phase IV of the development will include high-rise apartments in Squares 767, 768, 769, and 739. Development of the Van Ness Elementary Scholl will occur during Phase V of the development. The applications for final approval of Phases II through IV of the development must be filed by October 31, 2008. The order of the phases may change subject to future market demands. Phase V is not under the control of the Applicant and will proceed at the time determined by the Board of Education and the District Government.	The Applicant is seeking flexibility to modify this condition in order to file the reaming applications for final approval for the high-rise apartments in Squares 767, 768, and 739 by December 2013.
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