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District of Columbia
The Honorable Adrian M. Fenty

Chairman
Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director

Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. Z.C. 03-12/03-13 G, H

JUN 8 2009

Zoning Commission of the
District of Columbia
2nd Floor, Suite 210
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

The National Capital Planning Commission, at its meeting on June 4, 2009, approved the enclosed action on the proposed modifications to the second stage Consolidated Planned Unit Development, for the Capper/Carrollsborg Hope VI Redevelopment Project for Squares 882 and 769. Please note that the Commission action is subject to the conditions referenced in the action and attached letters. The Staff Recommendation for the project is also enclosed.

Sincerely,

Marcel C. Acosta
Executive Director

Enclosures

cc: Harriet Tregoning, Director, D.C. Office of Planning
Anthony Hood, Chairman, Zoning Commission

ZONING COMMISSION
District of Columbia

CASE NO.

EXHIBIT NO.

03-12/03-13G, H
29

STAFF RECOMMENDATION

NCPC File No. ZC 03-12G,H/03-13 G,H



MODIFICATIONS TO SECOND STAGE PLANNED UNIT DEVELOPMENT CAPPER/CARROLLSBURG HOPE VI REDEVELOPMENT PROJECT FOR SQUARES 882 AND 769

Southwest
Washington, DC

Referred by the Zoning Commission of the District of Columbia

May 28, 2009

Abstract

The Zoning Commission of the District of Columbia has taken a proposed action to approve modifications to a second stage Planned Unit Development for a ten-story residential building on L Street, SE, a five story residential building on L Street and a eight-story commercial building on M Street located in southeast Washington, D.C. on Squares 882 and 769. These modifications are to allow greater height for the buildings on Square 882 and greater density for the building proposed for Square 769.

Commission Action Requested by Applicant

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

Executive Director's Recommendation

The Commission:

Advises the Zoning Commission that the modifications to the proposed second stage Consolidated Planned Unit Development for Squares 882 and 769 may have an adverse affect on the safety and security of military personnel at the Navy Yard and the Marine Corps Barracks, as identified in letters to the Zoning Commission from the Department of the Navy and United States Marine Corps dated April 1, 2009 and April 3, 2009, respectively.

Recommends that the Zoning Commission allow additional time before taking final action on this case to allow the Navy, Marine Corps and the developer to continue meeting in order to finalize the agreement mitigating the adverse impacts to the Navy Yard and the Marine Corps Barracks identified in the letters.

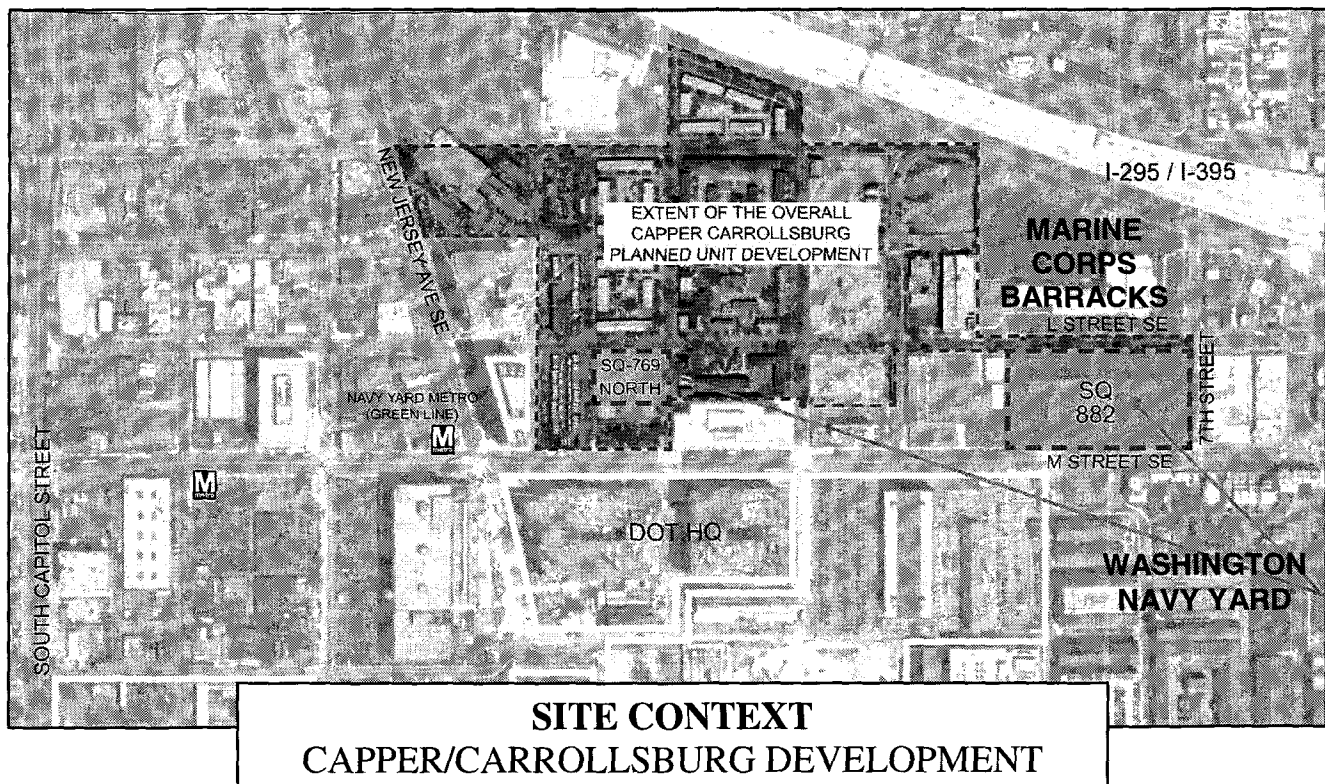
* * *

PROJECT DESCRIPTION

Site

The proposed projects are part of the larger Capper/Carrollsborg Redevelopment project, a 33 acre area located in Southeast just north of M Street between 2nd Street, SE and 7th Street, SE. The current proposal is a modification to a second stage PUD to accommodate an increase in the height and density on Squares 769 and 882.

Square 769, shown below, is adjacent to Reservation 17 D, the southern most portion of the future Canal Park. Square 882, also identified below, is across L Street, SE from the Marine Corps Barracks and approximately a block down M Street, SE from the Latrobe Gate, the historic main entrance to the Washington Navy Yard.



Background

In January 2004, NCPC approved an action for a First Stage Planned Unit Development (PUD) for the entire 33-acre Capper/Carrollsborg Hope VI Redevelopment Project stating that the PUD would not adversely affect the identified federal interest and is consistent with the Federal Elements of the Comprehensive Plan for the National Capital. This redevelopment project is being proposed by the Capper/Carrollsborg Venture LLC in conjunction with the District of Columbia Housing Authority.

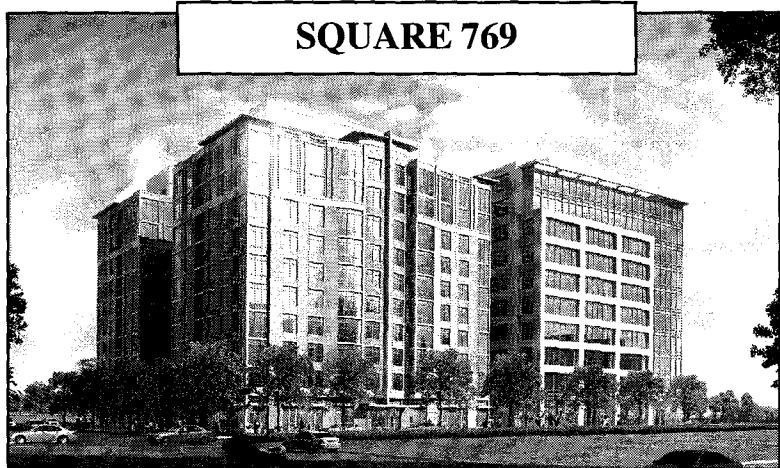
The Zoning Commission voted to approve the first stage PUD application in October 2004.

Proposal

As mentioned previously, this proposal includes the development of two sites in the Capper/Carrollsborg Hope VI Redevelopment Project, Squares 769 and 882. The proposed development for Square 769 is a ten-story residential building, while Square 882 includes two components: one five-story residential building and one eight-story commercial building.

Square 769

This 10-story, 171-unit residential building will be located on L Street, SE between 2nd Place and 3rd Street, SE. L Street, is a 90 foot right of way and the building is proposed at 110 feet in height. This proposal includes approximately 177,000 square feet of residential gross floor area and approximately 4,000 square feet of ground-floor retail. This development also includes a courtyard area, an amenity accessible from the second floor.



This building was originally approved by the Zoning Commission, in 2004, under the first stage PUD for 107 units. The increase in units is being requested

by the developer, because it states it needs "...to provide additional leverage and funding support for the 695 affordable units in the project." Further they state this is necessary given an increase in the construction costs since the project was first approved in 2004. Finally, the affordable housing component of this building is approximately 20% of the 171 units for persons/families earning less than 60% of the area median income.

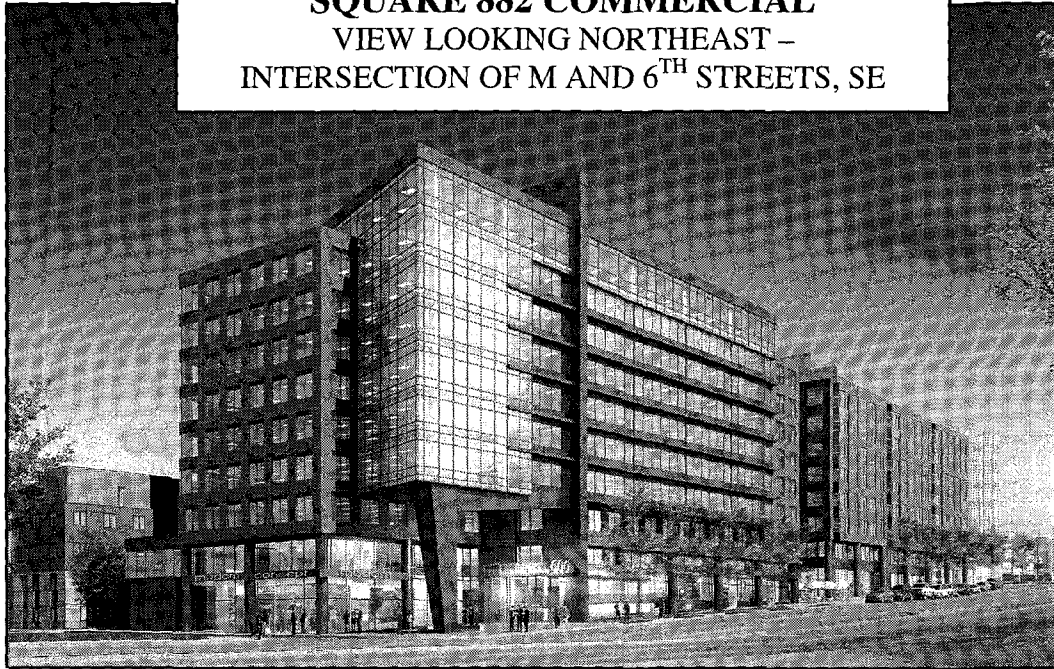
Square 882

This Square is located between L and M Streets, SE west of 7th Street, SE. This 158,214 square foot site is separated into two components: a commercial building on the southern portion of the Square and a residential building on the northern portion. The commercial building will be 92

feet in height and the residential building will be 60 feet in height. As part of the first stage PUD development, these sites were approved for 90 and 45 feet, respectively.

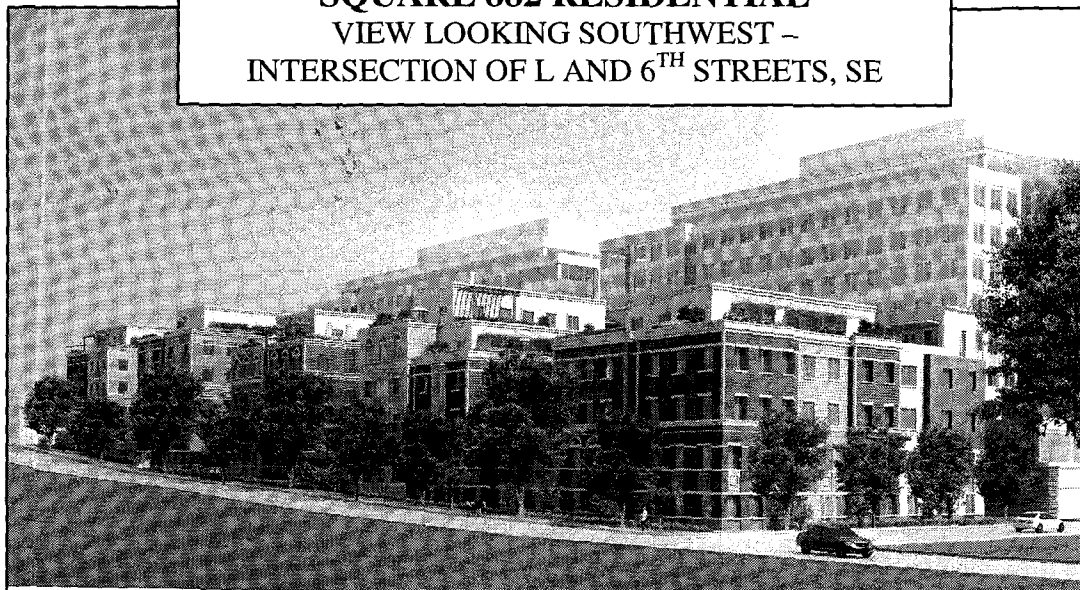
The commercial building on Square 882 will consist of 499,780 square feet of office space and approximately 15,000 square feet of retail. This building will front on M Street, SE. In addition, 284 underground parking spaces will be provided as part of this development.

SQUARE 882 COMMERCIAL
VIEW LOOKING NORTHEAST –
INTERSECTION OF M AND 6TH STREETS, SE



The residential component of Square 882 consists of 189 units of housing and some underground parking. There is an affordable housing component to this development with 20% of the housing for persons/families earning less than 60% of the area median income. This development will be 60 feet in height and the building mass steps down from 7th Street, SE to 6th Street, SE as it follows the natural topography of the site. Units on the lower floors will be one story, while two story, loft apartments are included in the on the top levels. These loft units will also include private roof terraces.

SQUARE 882 RESIDENTIAL
VIEW LOOKING SOUTHWEST –
INTERSECTION OF L AND 6TH STREETS, SE



PROJECT ANALYSIS

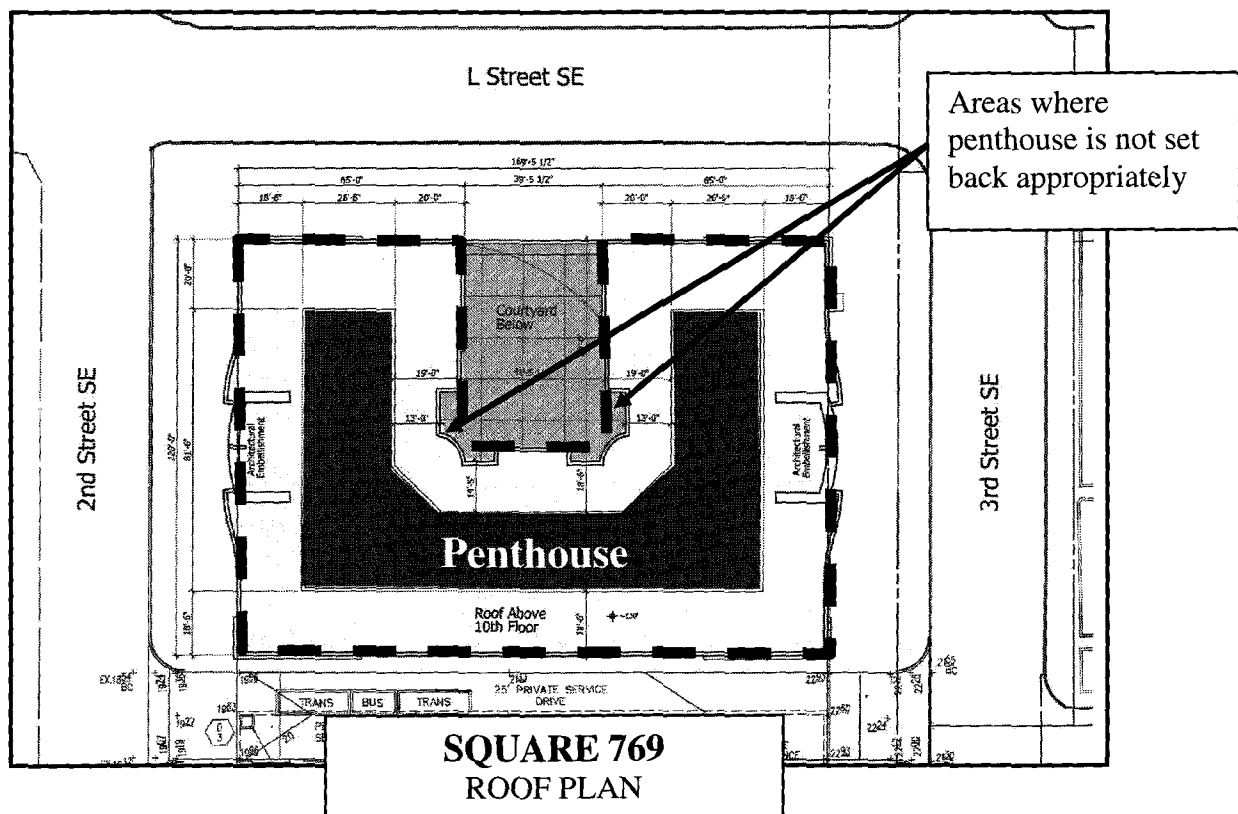
Executive Summary

Staff has identified two federal interests with regard to this proposed development. The first is conformance of the proposed development on Square 769 to the provisions of the Height Act. The second federal interest is the Department of the Navy and United States Marine Corps have both submitted letters (see attached) raising concerns posed by the proposed development on Square 882. These letters state that the proposed buildings may pose a safety and security threat to the military personnel at both the Navy Yard and the Marine Barracks and that there will be a visual impact on the Navy Yard Historic District.

Square 769

The penthouse on the proposed residential building on this Square is set back properly from exterior walls facing streets, but is not set back from all portions of exterior walls as required by the Height Act. This is illustrated in the roof plan below which identifies the back corners of the walls of the second floor courtyard where the set back is not adequate.

While this design is not in accordance with the provisions of the Height Act, in this instance staff is not recommending that the Commission comment unfavorably because the portions of the penthouse that are not properly set back will not be visible from the street or other publicly accessible location, and the courtyard itself is not public, being accessible only from the building's second floor.



Square 882

The Department of the Navy and the United States Marine Corps submitted letters to the Zoning Commission concerning the development of Square 882 and its impact on the Navy Yard Historic District as well as security concerns for personnel at two nearby sites, the Navy Yard and the Marine Corps Barracks. The Navy and the Marine Corps have been meeting over the past month with the District of Columbia Housing Authority (DCHA), and the developer to determine if they can come to an agreement on the issues raised in the letters.

In summary, the Navy raised two main issues concerning the height of the commercial building on M Street, SE. First, that the height would compromise the integrity of the nearby Navy Yard Historic District and second, the safety and security of personnel at the Navy Yard could be compromised by providing direct line of sight in to the site. The Marines raised a similar concern about the height of the buildings compromising the safety and security of the barracks across L Street, SE.

The District of Columbia State Historic Preservation Officer (DC SHPO) reviewed the first stage PUD project and in February 2003 found that “the redevelopment of Arthur Capper/Carrollsborg and its environs will have no adverse effect on historic resources.” At that time, the proposed office building in Square 882 along M Street was listed at 110 feet in height. This height was lowered before the first stage PUD was submitted so the Commission actually approved a height of 90 feet in January 2004 for the first stage PUD. While the current proposal is for a building 92 feet in height, staff concurs with the DC SHPO assessment from February 2003 that there would be no adverse effect on historic properties. In addition, since M Street is a 90 foot right of way, under the provisions of the Height Act a building 110 feet in height would be allowed.

With regard to security concerns over building height raised by the Navy and Marine Corps, staff has been in consultation with all of the interested parties over the past two weeks and is pleased with the work and tentative agreements reached so far on these issues. Since the exact language has not been determined, only the general areas of agreement will be discussed. The following items are to be included in the tentative agreement:

- Surveillance cameras on roof of the proposed building(s)
- Procedures will be established for notifying Navy and Marines about rooftop access
- Review of tenant occupancy of the office building
- Window design to enhance security for Navy and Marines

The Navy has requested surveillance cameras on the roof of the proposed building(s) to ensure that they are able to identify any threats on the roof at all times. Since the developer has stated that there may be a roof deck on the commercial building, the Navy has requested that they be notified when there are any events or access has been granted to use the roof. The Navy and Marines have also asked that they be given the opportunity to review the list of tenants for the commercial building. It is likely that the reviewed list of tenants would only include those leasing space between the third and eighth floors. Finally, the Navy and Marines would request that the windows facing their sites not be operational.

It is anticipated that a Memorandum of Understanding between the Navy and the DCHA and another between the Navy and DCHA can be achieved within the next few weeks.

Therefore staff recommends that the Commission **advise the Zoning Commission that the modifications to the proposed second stage Consolidated Planned Unit Development for Squares 882 and 769 may have an adverse affect on the safety and security of military personnel at the Navy Yard and the Marine Corps Barracks, as identified in their letters to the Zoning Commission dated April 1, 2009 and April 3, 2009, respectively.** In addition, staff recommends that the Zoning Commission allow additional time before taking final action on this case to allow the Navy, Marine Corps and the developer to continue meeting in order to finalize the agreement mitigating the adverse impacts identified by the Navy and Marines in their letters.



UNITED STATES MARINE CORPS

MARINE BARRACKS

8th & I STREETS S. E.

WASHINGTON, D. C. 20390-5000

2009 APR 15 AM 10:02

IN REPLY REFER TO:

1000

CO

3 Apr 09

District of Columbia Office of Zoning
Attn: Sharon Schellin
441 4th Street, N.W.,
Suite 220-South
Washington, D.C. 20001

Via: Assistant Deputy Commandant for Installation and Logistics
(Facilities-LF)

Dear Ms. Schellin:

I request the record for Case No. 03-12-G/03-13G for properties located in Squares No. 769 and 882, Capper/Carrollsbury Venture LLC and the D.C. Housing Authority be reopened so that the following comments can be included.

As a commander of a military installation, I have serious concerns regarding the proposal for the northern portion of Square 882. Current zoning limits the height of buildings to 45 feet. The proposal allows building heights to be increased to 60 feet. The increase will have long-term, irreversible, and potentially negative consequences affecting the ability of the Marine Corps to maintain appropriate anti-terrorism and force protection for Marine Barracks Washington; specifically, the barracks facilities located across the street from the site.

Additionally, I am concerned about the proposal relative to the southern portion of Square 882. As proposed, the rezoning would allow buildings on the southern half of the parcel to be increased from a height of 50 feet to a height of 92 feet. The height increase also potentially degrades our ability to ensure the safety and security of personnel living and working at Marine Barracks Washington.

Marine Barracks Washington has a long record of working with the District of Columbia to find mutually beneficial solutions to our shared land use concerns. I believe we can work together to resolve the issues presented by the rezoning of Square 882. Please confirm that the Zoning Commission will accept these comments into the public record for the zoning action. Please contact Major Peter Dahl at (202) 433-6269 or peter.dahl@usmc.mil if you have questions regarding these comments. I look forward to working with you to resolve this matter.

L. H. Smith
A. H. SMITH

ZONING COMMISSION
District

CASE NO.

EXHIBIT NO.

9
03-12/03-13
98



DEPARTMENT OF THE NAVY
NAVAL SUPPORT ACTIVITY WASHINGTON
1411 PARSONS AVENUE SE STE. 303
WASHINGTON NAVY YARD DC 20374-5003

11010
Ser N00/165
1 Apr 09

Ms. Sharon S. Schellen
Chair, District of Columbia Zoning Commission
441 4th Street NW
Suite 210 South
Washington, DC 20001

Dear Ms. Schellen:

SUBJECT: PUBLIC HEARING FOR CASE # 03-12G & 03-13G, CONCERNING
SQUARE 882, LOCATED ALONG M STREET SE AT 6TH STREET

Naval Support Activity Washington has some significant concerns regarding the re-zoning of the areas indicated on the enclosed Zoning Map of M Street area from your website at <http://dcoz.dc.gov/services/zoning/commish.shtm>

We request that the record be reopened to accept filing of our comments to the public record in reference to zoning cases 03-12G and 03-13G. The current R-5-B zoning for the southern half of Square 882 limits the building height to a maximum height of fifty (50) feet. The District's conditional approval rezoning the southern portion of Square 882 to the CR zoning designation, by Zoning Commission Order Number 03-12G/03-13G, would allow a maximum height restriction of ninety (90) feet. The current application for the Second Stage Planned Unit Development (PUD) further requests an increase in height for the southern portion of Square 882 to a maximum height of ninety-two (92) feet. As proposed, the rezoning would allow buildings on the southern half of Square 882 be increased to a height of ninety-two (92) feet where presently the height is limited to fifty (50) feet. The Navy opposes the proposed height provisions of this amendment for the following two reasons:

1. Specific to the zoning issues before the commission, it is the Navy's concern the additional height could potentially compromise the integrity of the Washington Navy Yard (WNY) Historic District, including the Latrobe Gate. According to the Department of the Interior, new construction adjacent to historic properties should consider the location, size, scale, and design of the new construction in relationship to the historic building or buildings. Views from, as well as of, the

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Ser N00/165
1 Apr 09

historic property should also be taken into consideration for all new construction. The Navy believes that buildings exceeding the currently permitted fifty (50) foot height restrictions located across M Street from the Navy Yard Historic District will negatively impact the view shed from the Navy Yard. The WNY Historic District is listed in the National Register and is a designated National Historic Landmark and a locally designated DC Landmark. The WNY District extends south from M Street to the Anacostia River, and west from Parsons Avenue (9th Street) to Isaac Hull Avenue (6th Street). The L'Enfant Plan for the City of Washington, developed during the 17th Century, indicated that the Southeast quadrant of the city should be developed with industrial facilities, including a Navy Yard on the Anacostia River. In 1799, the WNY was officially established on the northern bank of the Anacostia River, in accordance with the L'Enfant Plan.

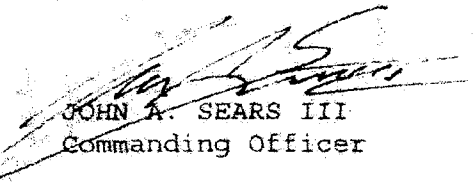
The Latrobe Gate is at the intersection of 8th Street and M Street in Southeast Washington. It is a Greek Revival structure which has been incorporated into the ground story of a three-story late-Victorian building. The gate was designed by Benjamin Latrobe, one of America's foremost early architects, in 1804 and was one of the first structures built at the WNY. It has been in continuous use as the principal entrance to the Yard since 1806. The Gate contributes significantly to the cultural heritage and visual beauty of the District of Columbia and was listed on the National Register of Historic Places in 1973.

2. The second issue is that buildings of additional height immediately adjacent to our perimeter could potentially increase the opportunity for compromises to the safety and security of personnel living and working in the WNY. We have safety and security concerns in any case where nearby buildings exceed the height of our historic perimeter wall, providing direct line of sight into the WNY. Direct line of sight into the WNY poses risks in several manners, including but not limited to, direct fire, observation and surveillance. Electronic monitoring using line-of-sight techniques poses risks to worldwide Naval operations.

We appreciate the opportunity to comment and request that the Zoning Commission confirm when our comments have been accepted into the public record. For any questions,

11010
Ser N00/165
1 Apr 09

please contact Mrs. Janell Herring at 202-433-0452 or
through email janell.herring@navy.mil

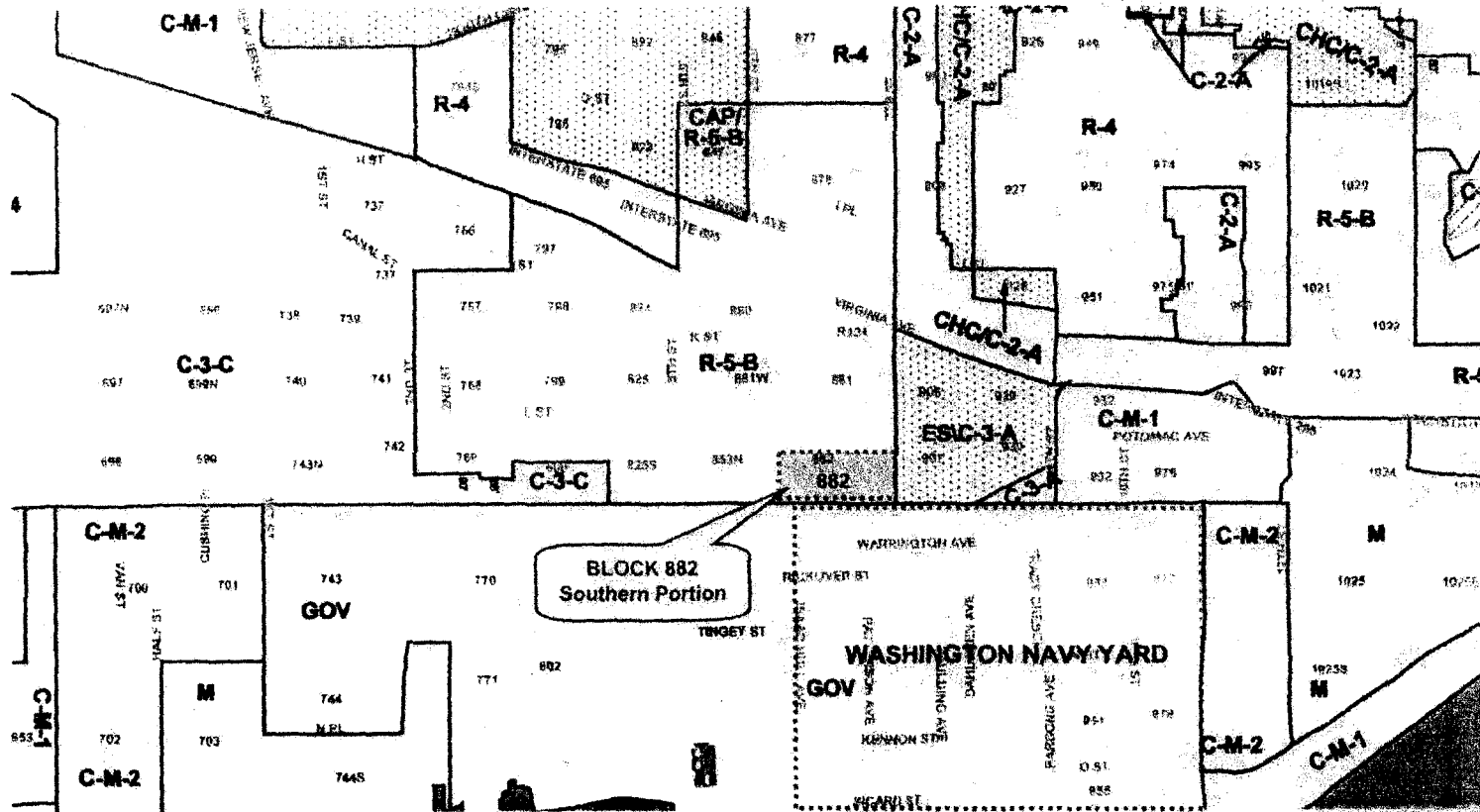


JOHN A. SEARS III
Commanding Officer

Enclosure: 1. Zoning Map of M Street SE area

Copy to:
NAVFAC Washington
PWD Washington
NDW Community Liaison

ENCLOSURE 1: ZONING MAP OF M STREET SE AREA



SOURCE: DC OFFICE OF ZONING
WWW.DCOZ.DC.GOV; March 31, 2009

COMMISSION ACTION

NCPC File Nos. ZC 03-12/03-13G, H



**MODIFICATIONS TO SECOND STAGE PLANNED UNIT DEVELOPMENT
CAPPER/CARROLLSBURG HOPE VI REDEVELOPMENT PROJECT FOR
Squares 882 and 769**

Southwest
Washington, DC

Referred by the Zoning Commission of the District of Columbia

June 4, 2009

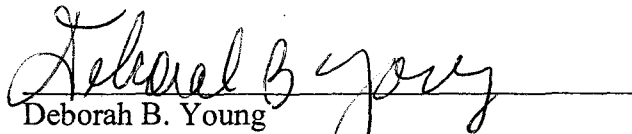
Commission Action Requested by Applicant

Approval of the report to the Zoning Commission of the District of Columbia pursuant to 40 U.S.C. § 8724(a) and DC Code § 2-1006 (a).

Commission Action

The Commission:

Advises the Zoning Commission that the modifications to the proposed second stage Consolidated Planned Unit Development for Squares 882 and 769 would not be inconsistent with the Comprehensive Plan for the National Capital nor would they adversely affect any other identified federal interests subject to the Zoning Commission including in its final action the conditions set forth in the June 1, 2009 letters from the Department of the Navy and Holland and Knight and the June 4, 2009 letter from Holland and Knight (letters attached).


Deborah B. Young
Secretary to the National Capital Planning Commission



DEPARTMENT OF THE NAVY
NAVAL SUPPORT ACTIVITY WASHINGTON
1411 PARSONS AVENUE SE STE. 303
WASHINGTON NAVY YARD DC 20374-5003

11010
Ser N00/243
June 1, 2009

Mrs. Sharon S. Schellin
Chair, District of Columbia Zoning Commission
441 4th Street NW
Suite 210 South
Washington, DC 20001

Dear Mrs. Schellin:

SUBJECT: PUBLIC HEARING FOR CASES 03-12G AND 03-13G, CONCERNING
SQUARE 882, LOCATED ALONG M STREET SE AT 6TH STREET

This letter provides additional information to update the status of our previous opposition, correspondence of April 1, 2009. We request that the record be reopened to accept filing of our comments to the public record in reference to zoning cases of 03-12G and 03-13G.

As indicated in the Holland & Knight letter of June 1, 2009, we have met with the developer, Capper/Carrollsborg Venture, LLC, to discuss ways the developer might assist to mitigate our specific security concerns. After that meeting, the developer drafted a Memorandum of Understanding for our review which addresses most but not all of our concerns. The conditions proffered by the developer in the Holland & Knight letter of 1 June 2009 also address most but not all of our concerns. Accordingly, we do not wish to delay the project while we work with the developer to finalize details and formalize an agreement. To ensure that the Navy's security concerns are addressed without delaying the rezoning process, we request the Zoning Commission include the conditions proffered by the developer in the Holland & Knight letter of June 1, 2009 with one change. Specifically, we request that the proffered condition "a" be amended to read: "The Applicant will enter into an agreement with the Navy and/or Marine Corps to permit the Navy and/or Marine Corps to install and maintain surveillance cameras on the roof(s) of the proposed building(s) at the sole expense of the Navy and/or Marine Corps."

If the Zoning Commission adds these conditions to the zoning approval, then the Navy withdraws opposition to the

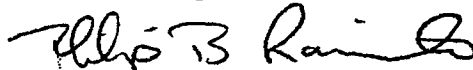
11010
Ser N00/243
June 1, 2009

zoning request. We will continue to work with the developer to execute an agreement in a timely manner.

The Zoning Commission should be aware that the Navy was not properly notified of this zoning request. This caused delay in identifying the Navy's security concerns, and subsequently, our discussions and agreement with the developer. The developer notified General Services Administration (GSA), which does not own or manage property for the Department of Defense (DoD). Applicants requesting zoning actions that may affect DoD property should notify the local installation commander. In the case of the Washington Navy Yard, that would be the Commanding Officer, Naval Support Activity Washington, at the above address.

For this action or any questions or comments, please contact Mrs. Janell Herring at 202-433-0453 or through email janell.herring@navy.mil.

Sincerely,



PHILIP B. RAIMONDO
Commander, U.S. Navy
Acting Commanding Officer

Reference: Navy letter to the Zoning Commission of
April 1, 2009

Enclosure: Holland & Knight letter of June 1, 2009

Copy to:

NAVFAC Washington
PWD Washington
John Imparato, HQ, NDW
Dan McCabe, Urban Atlantic
David Smith, Forest City
Asmara Habte and David Cortiella, District of Columbia Housing
Authority
David Levy and Carlton Hart, NCPC

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KYRUS L. FREEMAN
202-862-5978
kyrus.freeman@hklaw.com

June 1, 2009

VIA HAND DELIVERY

National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington D.C. 20004

Re: **Response to Letters Filed by the Department of Navy and the U.S. Marine Corps
and Regarding Case Nos. 03-12G/03-13G and 03-12H/03-13H**

Dear Members of the Commission:

On behalf of Capper/Carrollsborg Venture, LLC, together with the District of Columbia Housing Authority ("DCHA") (collectively the "Applicant"), we are writing to inform you of the Applicant's progress in working with the Department of Navy (the "Navy") and the U.S. Marine Corps (the "Marines") since the Navy and the Marines filed their letters, dated April 1, 2009 and April 3, 2009 respectively, indicating they had concerns regarding the proposed development.

Representatives of the Applicant have met with representatives of both the Navy and the Marines on numerous occasions in the past two months to address the concerns raised in their respective letters. Based upon the concerns raised by the Navy and the Marines during these meetings, the Applicant will request that the Zoning Commission include the following items

either by reference to this letter, or by specifically listing the items below, as conditions of any order approving this application:

- 1. The Applicant shall incorporate the following measures into the development and operation of the proposed office and residential buildings in Square 882:**
 - a. At the Navy's sole expense, the Applicant shall permit the Navy to install surveillance cameras on the roof of the office building and to connect such cameras to the Navy's surveillance system. At the Marines sole expense, the Applicant shall permit the Marines to install surveillance cameras on the roof of the residential building and to connect such cameras to the Marines surveillance system. The cameras installed by the Navy shall transmit wirelessly and be monitored by Navy personnel, and the cameras installed by the Marines shall transmit wirelessly and be monitored by Marines' personnel. The location and design of the cameras shall be coordinated with the Applicant and shall not delay preparation of design documents and/or the receipt of permits for the building. Maintenance of the cameras shall be at the sole expense of the Navy and Marines and access for maintenance must be coordinated and approved through the building's property manager, which access will not be unreasonably withheld or delayed.

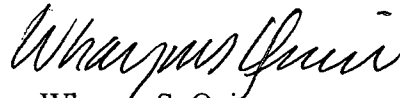
- b. During construction of the office building, the Applicant shall supply the Navy the contact information for the building's construction supervisors to coordinate and facilitate installation of the Navy's equipment.
- c. During construction of the residential building, the Applicant shall supply the Marines the contact information for the building's construction supervisors to coordinate and facilitate installation of the Marines equipment.
- d. Upon completion of construction of the office building, the Applicant shall provide to the Navy and the Marines contact information for the office building's property manager to facilitate the coordination of efforts to address any security concerns that may arise once the office building is constructed. The Applicant shall also provide written notice to the Navy of the proposed rooftop maintenance schedule once determined.
- e. Upon completion of construction of the residential building, the Applicant shall provide to the Marines the contact information for the building' property manager to facilitate the coordination of efforts to address any security concerns that may arise once the residential building is constructed. The Applicant shall also provide written notice to the Marines of the building's exterior maintenance schedule once determined.

- f. As the office building becomes occupied, the Applicant shall provide to the Navy a list of the tenant organizations (not individuals) from the fourth through eighth floors of the building. The Applicant shall provide an updated list whenever a tenant moves into or out of the office building. This provision shall not be deemed to grant the Navy any right to approve or disapprove of any tenants in the office building.
- g. The Applicant shall provide the Navy and Marines 48-hour notice prior to any large events on the roof of the office building. The Applicant shall limit access to the roof of the office building during specific ceremonial events held at the Washington Navy Yard. The Navy shall provide to the office building's property manager notification of the scheduling of events in a timely manner and, at a minimum, 7 days prior to such event to the building's property manager.
- h. The Applicant and the Marines shall provide notice of, and coordinate the scheduling of, any large events or assemblies in the common courtyard areas of the residential building or on the Marines' grounds.
- i. All notifications listed herein from the Applicant to the Navy and/or Marines are for informational purposes only and do not in any way require any type of approval from the Navy and/or Marines of any item in any notification.

The Applicant has discussed these proposed conditions with the Navy and Marines, and understand that the conditions adequately address their concerns. Moreover, including these items as conditions in the PUD order make the provisions binding upon the Applicant.

Thank you for your consideration of this matter. The Applicant looks forward to the NCPC's and the Zoning Commission's favorable consideration of this application.

Sincerely,



Wayne S. Quin



Kyrus L. Freeman

cc: A.H. Smith, United States Marine Corps
John A. Sears III, Department of the Navy
D.C. Zoning Commission
Steve Cochran, D.C. Office of Planning

WHAYNE S. QUIN
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KYRUS L. FREEMAN
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kyrus.freeman@hklaw.com

June 4, 2009

VIA HAND DELIVERY

National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington D.C. 20004

Re: Response to Letters Filed by the Department of Navy and the U.S. Marine Corps and Regarding Case Nos. 03-12G/03-13G and 03-12H/03-13H

Dear Members of the Commission:

On behalf of Capper/Carrollburg Venture, LLC, together with the District of Columbia Housing Authority ("DCHA") (collectively the "Applicant"), we are writing in response to the letter filed by the Department of Navy (the "Navy"), dated June 1, 2009, and the letter filed by the U.S. Marine Corps (the "Marines"), dated June 3, 2009.

The Applicant hereby agrees to the modification proposed by the Navy. Thus, the Applicant will request that the Zoning Commission revise condition "a" identified in the Applicant's June 1st letter to read as follows:

- a. The Applicant will enter into an agreement with the Navy and/or Marine Corps to permit the Navy and/or Marine Corps to install and maintain surveillance cameras on the roof(s) of the proposed building(s) at the sole expense of Navy and/or Marine Corps.

As indicated in the Navy's letter, since the Applicant has agreed to modify the language of proposed condition "a," the Navy will withdraw its opposition if the Zoning Commission adds these conditions to the zoning approval.

With respect to the Marines' letter, the Applicant requests that NCPC recommend favorably on the modifications requested. As noted in the Applicant's June 1st letter, the Applicant has met with the Marines a number of times in the past two months to address the concerns raised in the Marines' letter. Based on these discussions, the Applicant drafted and submitted to the Marines a proposed Memorandum of Understanding that included the conditions listed in the Applicant's June 1st letter to address their stated security concerns. Prior to the submission of the Marines' letter today, the Applicant understood that the parties had reached agreement and that the proposed conditions addressed the Marines' security concerns. In fact, nothing in the Marines' June 3rd letter indicates why the Applicant's proposed conditions are unacceptable, or what remaining security concerns the Marines have.

The Marines, beyond the scope of the proposed modifications which are the subject of this pending application, have requested a delay to accommodate their entirely new planning initiative. However, the Applicant's property is owned by DCHA and is subject to a zoning approval granted pursuant to Z.C. Order No. 03-12/03-13, with NCPC's favorable recommendation, which was issued and became final and effective on October 8, 2004, and authorizes the development the Applicant's site. Such a delay will result in significant damages to the Applicant and this major Hope VI redevelopment project. As noted in the letter prepared by DCHA and attached hereto as Exhibit A, any further delay will:

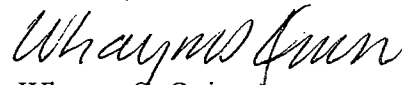
1. Delay implementation of the PILOT financing which funds the infrastructure for the entire development and will effectively bring the project to a halt because no further infrastructure for any component can be started. The next 3 squares, which includes the 2nd phase of the townhomes (163 units), have 2nd stage approval and have been designed. Commencement of construction depends on prompt installation of infrastructure.
2. The PILOT financing also funds the vertical construction of the Community Center, the permit date and start date for which are conditions of the PUD order. This will delay the design and construction of the Community Center which was a critical issue in the approval.
3. The marketing of the office building will be delayed until the 2nd stage PUD is approved because potential tenants need definitive parameters regarding building size and design before committing to lease obligations.
4. Capper is the largest Hope VI project in the nation that incorporates 1:1 replacement public housing units. Of the 707 original public housing units, we have completed 315 units. An additional 36 units are under construction in the remainder of the 1st phase of the townhouse component. The remaining 356 public housing units would be delayed while awaiting a new planning study.

Finally, with respect to the notice issue, the notice required pursuant to the Zoning Regulations was properly provided. Section 3015.3(a) of the Zoning Regulations requires the Office of Zoning to mail a copy of the hearing notice at least 40 days prior to the hearing to owners of property within 200 feet of the property included in the application. As shown on the

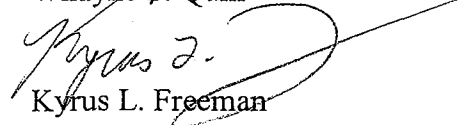
map attached hereto as Exhibit B, the 200 foot radius included both the Washington Navy Yard and the Marines' site. A copy of the D.C. Office of Tax & Revenue records for Squares 801, 881 and 881W and a roster of property owners indicating which property owners are included within such 200 foot radius, and, thus to whom notice was sent is also attached at Exhibit B. In addition, the Office of Zoning published notice of the public hearing in the D.C. Register on January 23, 2008 in accordance with Section 3015.2. The Applicant also posted notice of the hearing on Square 882, including on the L Street frontage, on February 2, 2009 in accordance with Section 3015.2. Thus, proper notice as required pursuant to the Zoning Regulations was provided.

Thank you for your consideration of this matter. The Applicant looks forward to the NCPC's and the Zoning Commission's favorable consideration of this application.

Sincerely,



Wayne S. Quin



Kyrus L. Freeman

cc: A.H. Smith, United States Marine Corps
John A. Sears III, Department of the Navy
D.C. Zoning Commission
Steve Cochran, D.C. Office of Planning