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**VIA E-MAIL**

Zoning Commission for the District of Columbia  
zcsubmissions@dc.gov  
Office of Zoning  
441 4<sup>th</sup> Street NW, Suite 210S  
Washington, D.C. 20001  
(202) 727-0789

Re: Z.C. Case No. 03-12Q/03-13Q (Capper Carrollsburg Venture, LLC and D.C. Housing Authority's Modification to 1<sup>st</sup>-Stage PUD @ Squares 739, 767, 768)

Dear Members of the Zoning Commission:

CCV and DCHA seek[] flexibility regarding the location and distribution of the remaining required ACC public housing units on Squares 739, 767, 768, and Lot 77 in Square 737.

**Statement of Interest**

I am a homeowner on the 900 block of 3rd Street SE, directly across from Square 767. I have lived in that location since August of 2011. I moved to the neighborhood partly because it was advertised as a "mixed-use, mixed-income" community that I believe is a great place to raise a family.

**Factual Background**

On February 6, 2004, The Zoning Commission approved development on Square 767 of a "6-story residential apartment building having a height of 65 feet, [and] 147 residential units with 66 ACC rental units."

On December 11, 2013, at a Board of Commissioners Meeting, DCHA put forward Resolution 13-26 To Authorize the Sale of a Portion of Square 767. Resolution 13-26 contemplates that DCHA and CCV will "jointly finance construction of a 48 unit multifamily building on the northern portion of Square 767, of which *all units will be ACC units*" while the southern portion of Square 767 will be sold to CCV and EYA for private development (emphasis added).

On January 2, 2014, CCV and DCHA filed an application for modification seeking to reallocate the location and distribution of the required public housing units to provide for 48 ACC units in Square 767 with the remainder of the ACC units distributed throughout Squares 739, 768, and Lot 77 in Square 737. In a statement in support of the request for modification dated December 31, 2013, and included in its application materials, CCV and DCHA identified the specific number of ACC units to be developed in each square, and they stated that “[t]he requested modification does not change any of the zoning parameters for the approved PUD (e.g., use, *height*, FAR, parking, *building design*)” (emphasis added).

On January 31, 2014, the Office of Planning evaluated CCV and DCHA’s modification requests in its Set Down Report. The Office of Planning determined that if the modification requests were granted, the PUD’s program would “not be substantially altered.” The Office of Planning specifically noted that “[a]ll of the ACC units would be located in buildings with a mix of market rate and affordable units. Within the three affected PUD Squares and within the adjacent off-site Square 737, *none of the affordable units would be within buildings devoted solely to affordable housing*” (emphasis added). Therefore, the intent of the PUD would remain intact. The Office of Planning also reiterated that the PUD’s requirements for Square 767 contemplated a building no taller than 65 feet and 6 stories with 4.58 FAR and 76% lot occupancy. Based on this evaluation, the Office of Planning recommended that the Zoning Commission set down the request for modification for a public hearing.

On April 29, 2014, CCV and DCHA filed a Prehearing Statement in Support of Request for Modification. Unlike in its original Statement in Support of Modification from December 31, 2013, CCV and DCHA now “seek[] flexibility regarding the location and distribution” of the remaining required Annual ACC public housing units on Squares 739, 767, and 768. Except for the 30 ACC units to be located on Lot 77 in Square 737, CCV and DCHA do not identify the specific number of ACC units to be developed in Squares 739, 767, and 768. Moreover, while the Prehearing Statement assures that the 30 ACC units to be located in Lot 77 in Square 737 “will be indistinguishable from market rate units and will be distributed throughout the buildings,” it provides no similar assurances with regard to the allocation of the remaining ACC units on the other Squares.

### **Statement of Position**

DCHA’s prior actions do not provide a sufficient basis to be assured that the “flexibility requested” will result in a project and distribution of uses consistent with the PUD’s overall goal of providing a “vibrant mixed-use and mixed-income community.” To the contrary, DCHA’s prior actions suggest that the requested flexibility will be used precisely to undermine the PUD’s overall goal.

CCV and DCHA filed a Prehearing Statement in Support of Request for Modification that not only differed substantially from the application materials that the Office of

Planning reviewed but also allows for a modification that the Office of Planning explicitly has opposed. The requested flexibility will permit DCHA and CCV to create a building containing solely ACC public housing units, which goes directly against the express intent of the PUD and the Office of Planning's stated concerns.

While CCV and DCHA maintain that the 30 ACC units to be located in Lot 77 in Square 737 will be distributed throughout the buildings, they make no such assurances with regard to the reallocation of the remaining ACC units on Squares 739, 767 and 768. This omission is glaring in light of the actions DCHA already has taken in order to create a building dedicated solely to ACC public housing units on Square 767.

Given the December 11, 2013, DCHA meeting agenda and Resolution 13-26, it is apparent that DCHA already has contemplated selling the southern portion of Square 767 for private development and developing on the northern portion of the Square a single building of which all units will be ACC units. This violates both the stated purpose of the PUD to create a "mixed-income" community and the concerns expressed by the Office of Planning's Set Down Report that no building be "devoted solely to affordable housing." Significantly, while CCV and DCHA discussed these plans at least as far back as December 2013 (and prior to their original application), they requested the flexibility to allow for such an arrangement only after the Office of Planning already had reviewed their original application materials and recommended that the modification request be set down for public hearing. Importantly, however, the Office of Planning's evaluation of the original application materials makes clear that the Office of Planning would not evaluate favorably any plan that could result in a single building devoted solely to ACC units. Such a modification would substantially alter the PUD program and compromise its intent for a mixed-use, mixed-income community.

Flexibility that would enable the development of two buildings rather than one on Square 767 also goes against DCHA's own application statements that the requested modifications will not change any of the zoning parameters for the approved PUD, including height and building design. The PUD provides that the building on Square 767 will be no more than 65 feet tall. That building 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." While certain design changes may be necessary, the PUD clearly contemplates a single building that transitions in height along with Square 768 "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." CCV and DCHA contemplate a change in building design such that two buildings will now occupy Square 767. In order for two separate buildings to house the same 147 residential units originally contemplated in a single building, the building height on Square 767 also necessarily will have to change. DCHA confirmed this at a public meeting on Saturday, February 8, 2014, when DCHA anticipated that the northern portion of Square 767 would need to be developed to seven

or eight stories in height (rather than the allotted six) in order to account for the reduced footprint but remaining need to accommodate 48 ACC units in the single building.

CCV and DCHA's request for flexibility also permits DCHA to run afoul of the PUD's requirement that the Copper Carrollsburg development contain "both affordable and market-rate units with no distinction in external design character between the two." By definition, having a separate building devoted solely to affordable housing units creates a distinction in external design between the affordable and market-rate units. Even if the buildings on the northern and southern portions of Square 767 are identical, the mere fact that the north building would consist solely of affordable housing units would create a physical and external distinction that runs counter to the objectives of the PUD. Moreover, because separate amenities would be required for each building, there will be further distinction between the residents of those buildings themselves.

In their April 29, 2014, Prehearing Statement, CCV and DCHA attempt to circumvent the issue of a mixed-income community by arguing that "a true mixed-income community [] is not defined by an individual square, but rather by the overall mix of uses across the project." CCV and DCHA seem to be trying to justify the creation of a community segregated by income rather than facilitating a community of mixed incomes. In the former, those in affordable housing units are relegated to one square or a portion of one square while market-rate units can be built a safe distance away. This will result in separate amenities and care for the market rate and affordable housing units, and it will facilitate a distinction between those who live in each type of housing, discouraging interaction. By contrast, in the latter situation, which is the clear stated objective of the PUD, those in affordable housing units find themselves neighbors with those in market-rate units, and the community begins to grow, minimizing any differences and distinctions that may exist. It is this mixed-income nature of the community that has attracted so many residents, including myself, to the area in the first place.

## **Conclusion**

CCV and DCHA should not be granted the requested flexibility regarding the location and distribution of the 206 remaining ACC public housing units on Squares 739, 767, 768, and Lot 77 in Square 737. To the extent the Zoning Commission believes that some level of flexibility is warranted, CCV and DCHA instead should be granted only a minimal level of flexibility within certain confines. CCV and DCHA should not be permitted to develop a single building devoted solely to ACC units. For similar reasons, CCV and DCHA also should not be permitted to develop a single building that is more than half devoted to ACC units. Except for the 30 ACC units to be located on Lot 77 in Square 737, the remaining ACC units should be distributed throughout Squares 739, 767, and 768 in proportion to the total residential units that will occupy each Square. The number of units per square identified in the CCV and DCHA application materials from January 2, 2013, is a good starting place.

CCV and DCHA also should not be permitted to develop Square 767 in a manner inconsistent with the PUD's objectives of transitioning from the higher buildings along M street to a "more moderate height" along the northern blocks of Canal Park. Preserving the row house character of the adjacent Capitol Hill and Capitol Quarter neighborhoods is an important aspect of the PUD that should not be ignored.

In light of DCHA's preliminary moves to sell the southern portion of Square 767, granting CCV and DCHA's request for flexibility is an invitation for abuse. Any flexibility given should come with significant oversight in hopes of achieving the vibrant mixed-use, mixed-income community that the PUD anticipated and upon which the existing residents have come to rely.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rachel L. Frankel", is positioned above the printed name.

Rachel L. Frankel