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June 19, 2008

VIA HAND DELIVERY

Jerrily R. Kress, Director
Office of Zoning
441 4th Street, N.W.
Suite 210-S
Washington, DC 20001

#05-36B

RECEIVED
D.C. OFFICE OF ZONING
2008 JUN 19 PM 2:46

Re: Request for Minor Modification of Zoning Commission Corrected Order No. 05-36
Planned Unit Development – 200 K Street, N.E. (Lot 67 in Square 749)

Dear Ms. Kress:

This letter is submitted on behalf of K Street Developers, LLC (the "Applicant") to request a minor modification of Zoning Commission Corrected Order No. 05-36 pursuant to Section 3030 of the Zoning Regulations. As further explained below, the proposed modification would limit access to a portion of the central plaza to residents of the proposed development. Because the requested modification is "of little or no importance or consequence," the Applicant respectfully requests that, in the interest of administrative efficiency, the Commission place this matter on the consent calendar for disposition without the need for an additional public hearing.

Background of Case

On November 29, 2005, the Applicant filed an application requesting preliminary and consolidated approval of a planned unit development ("PUD") and a related map amendment to the C-3-C District for all of Lot 67 in Square 749 (the "Subject Property"). In Zoning Commission Corrected Order No. 05-36 (effective October 13, 2006), a copy of which is attached hereto as Exhibit A, the Commission granted consolidated approval for the portion of the project located on the eastern portion of the site ("Phase I") and preliminary approval for the portion of the project located on the western portion of the site ("Phase II"). Condition No. 8 of the Commission's order applied to both phases of the project and required, *inter alia*, the provision of an outdoor central plaza containing approximately 27,000 square feet of land area that would be available for passive recreational use by the public between the hours of 11:00 a.m. and 7:00 p.m.

ZONING COMMISSION
District of Columbia

On October 4, 2007, the Applicant filed an application for second-stage approval of Phase II. As currently designed, the proposed project will include an outdoor central plaza containing approximately 28,476 square feet of land area in both phases. Although the portion of the plaza located within Phase II will be open to the public between the hours of 11:00 a.m. and 7:00 p.m. each day, the Applicant now requests, consistent with its filings and testimony at the May 19, 2008 public hearing, that the use of the elevated terrace located within Phase I be limited to the residents of Phase I. Because the windows of residential units are located at ground level along the perimeter of the elevated terrace, public access to that area would compromise the safety and privacy of the building's residents.

During the public hearing on the second-stage PUD application for Phase II on May 19, 2008, the Applicant requested that the Commission provide flexibility from Condition No. 8 of Zoning Commission Corrected Order No. 05-36. Because the Applicant seeks to limit public access to the portion of the central plaza located within Phase I and because the proceeding in Zoning Commission Case No. 05-36A applies only to Phase II, the Office of the Attorney General advised the Applicant that it should file an application for a minor modification of Zoning Commission Corrected Order No. 05-36 as to Phase I. The Applicant's proposal to restrict public access to the elevated terrace within the central plaza was discussed extensively during the proceedings on the second-stage PUD application for Phase II, and the Office of Planning concluded that the loss of public access to this portion of the plaza was more than offset by other project amenities. In support of this modification request, the Applicant hereby incorporates the evidence and testimony of record in Zoning Commission Case No. 05-36A as if fully set forth herein.

Proposed Modification

The Applicant seeks to modify Condition No. 8 in Zoning Commission Corrected Order No. 05-36. That condition provided that the proposed project must include a 27,000-square-foot central plaza that would be open to the public for passive recreational use between the hours of 11:00 a.m. and 7:00 p.m. The proposed modification would limit access to the portion of the central plaza located within Phase I to the residents of Phase I. The majority of the central plaza will remain open to the public. No other aspects of the proposed project will be changed, and the Applicant will observe all other conditions of Zoning Commission Corrected Order No. 05-36. The modifications proposed by the Applicant are fully consistent with the central plaza conditions approved in Zoning Commission Case No. 05-36A. The requested modifications to Condition No. 8 are presented below, with additions in **bold underlined font**:

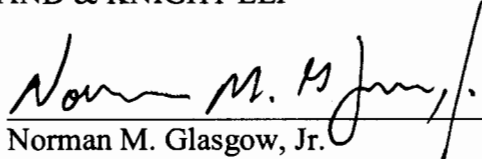
8. The Applicant shall provide a central plaza of approximately 27,000 square feet in size. **FWith the exception of the proposed daycare center's outdoor play area, the portion of the central plaza located within the Preliminary PUD** shall be opened to the public for passive recreational use between the hours of 11:00 a.m. and 7:00 p.m. daily, and shall be posted with appropriate signage to inform plaza users about permissible and prohibited plaza activities. **This portion of** the plaza shall be accessible to the public through a 2nd Street entrance that shall remain open during the hours of public access and shall be closed to all except building residents, employees, and any other authorized personnel between the hours

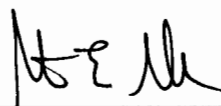
of 7:00 p.m. and 11:00 a.m. **Use of the portion of the central plaza located within the Consolidated PUD shall be limited to the residents of the Consolidated PUD.** In the second-stage PUD application, the Applicant shall provide data and drawings showing the design and placement of the 2nd Street entrance. The Applicant shall provide sufficient security personnel and procedures to ensure the safety of plaza users, including procedures defining the conditions requiring requests for Metropolitan Police Department assistance. Specific rules and operational details for the plaza shall be developed collectively by the Applicant, the condominium unit owner's association representing building residents in accordance with the provisions of D.C. Official Code § 42-1903.01 et seq., and Advisory Neighborhood Commission 6C.

We respectfully request that this matter be placed on the consent calendar for disposition without the need for an additional public hearing. We have enclosed a check in the amount of \$400.00 to cover the required filing fee. If you have any questions or need additional information, please do not hesitate to contact us.

Sincerely,

HOLLAND & KNIGHT LLP

By: 
Norman M. Glasgow, Jr.

By: 
Steven E. Sher, Director of Zoning
and Land Use Services

By: 
Jeffrey D. Johnson

Enclosure.

cc: Advisory Neighborhood Commission 6C
Stephen Cochran, D.C. Office of Planning

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing request for a minor modification of Zoning Commission Corrected Order No. 05-36 was served on this 19th day of June 2008, via e-mail or first-class mail, postage prepaid, upon the following:

Advisory Neighborhood Commission 6C
c/o Karen Wirt
234 E Street, N.E.
Washington, DC 20002

Stephen Cochran
D.C. Office of Planning
801 N. Capitol Street, N.E.
Suite 4000
Washington, DC 20002



Jeffrey T. Johnson