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March 14, 2003

ZONING COMMISSION
District of Columbia
CASE NO.02-15
EXHIBIT NO.55

BY HAND DELIVERY

Ms. Carol J. Mitten
Chairperson
Zoning Commission
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

RE: Comments in Response to Zoning Commission's Notice of Proposed Rulemaking (Zoning Commission Case No. 02-15; Text Amendment - Public Recreation and Community Center Use - 11 DCMR)

Dear Ms. Mitten and Members of the Zoning Commission:

As you know, this firm represents the Department of Parks and Recreation ("Department"), petitioner in the above-referenced proceeding. On behalf of the Department, this letter provides comments on the Notice of Proposed Rulemaking ("proposed regulations") published in the D.C. Register on February 14, 2003.

In general, the Department agrees with the comments filed on February 28, 2003 by the Office of Planning ("OP"). With regard to the issues of (i) defining Public Recreation and Community Center, (ii) lot occupancy, (iii) building height and (iv) gross floor area, the Department offers the following comments.

A. Definition: Public Recreation and Community Center

As noted in various letters submitted for the record, such as the comments from a nationally-recognized recreation association, the National Recreation and Park Association (see Ex. 47), the types

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of activities held at a public recreation center or community centers have changed over the past thirty years. As detailed in OP's comments, the Department offers a broad range of activities which fall within the common meaning of a "*health and wellness*" program. These programs are intended to promote a healthy lifestyle but do not and will not include programs or activities which would require additional regulation or license, such as an "out-patient clinic" or "drug treatment program." With regard to a "social" activity or program, the Department has in past offered a broad range of activities and programs which serve targeted populations within the neighborhood from children to seniors in a social setting.

In addition, the Department reiterates its recommendation that the definition should specifically authorize small "pantry type" kitchen facilities in recreation centers. With respect to kitchen facilities, a pantry is not a commercial kitchen, but is a smaller facility with limited food storage and preparation areas for limited use by staff and small numbers of children and seniors.

Thus, the Department recommends that the definition in the proposed regulations be revised to read as follows (additions are shown in bold, underlined text):

> "Public Recreation and Community Center - An area, place, structure, or other facility under the jurisdiction of a public agency that is used for community recreation activities. A public recreation or community center may provide a **broad** range of **health and** wellness, cultural, **social**, and arts and crafts activities, and educational classes and services. The center may include but not be limited to auditorium, multipurpose room, gymnasium, meeting space, open space, playground, playing court, playing field, or swimming pool **uses. Such centers may have pantry type kitchen with limited food storage and preparation areas but shall not have commercial kitchen facilities that are of a size customarily used to serve meals for large numbers of persons on a regular basis.**"

B. Lot Occupancy Standard

The Department agrees with OP's recommendation that the standard for lot occupancy in Residential Zones should be 40% in

residential districts and 60% in commercial zones. The 20% standard in the proposed regulation, with up to 30% maximum as a special exception by the Board of Zoning Adjustment (BZA), is too restrictive. The Department's pending projects, such as Takoma, Capital East Natatorium, and Banneker will all exceed the 20% limit. The Natatorium is located in a commercial zone and has a 52% lot occupancy where the standard for other buildings is 60%.

With impending budgetary restrictions in the next fiscal year, the Department wishes to avoid the dedication of increasingly scarce resources to a protracted BZA approval process instead of building centers which have been or will be fully vetted through a thorough community participation process.

Therefore, the Department recommends revising the proposed amendments to sections 403.3, 532, 634.4, and 932.4 to read as follows (additions or revisions are shown in bold, underlined text):

"No public recreation and community center shall occupy more than **forty percent (40%)** of the lot upon which it is located; except if approved by the Board of Zoning Adjustment, provided that, in addition to the requirements of § 3104.1, the agency shows that the increase is consistent with the agency policy of preserving open space."

With regard to commercial zones, the Department recommends the following amendment to section 772.

Revise section 772.1 by adding, after the words "devoted to a", the phrase **"Public Recreation or Community Center or a"**.

Add a new subsection 772.2 as follows:

772.2 A Public Recreation or Community Center may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §772.1 if approved by the Board of Zoning Adjustment, provided that, in addition to the

requirements of § 3104.1, the agency shows that the increase is consistent with the agency policy of preserving open space."

C. Building Height

The Department concurs with the OP recommendation of a forty-five (45) foot building height limit in all zones. This height is significantly less than the sixty (60) foot height allowed for public schools in residential zones. More importantly, several current projects (e.g. Emery and Takoma) would be immediately impacted because their height is proposed to be two to four (2 - 4) feet higher than the forty (40) foot limit in the proposed regulations. As an alternative, the Department supports the OP suggestion of allowing a two percent (2%) discretionary flexibility on centers. The Department further recommends vesting this discretion with the Zoning Administrator under section 2522.1 as a new paragraph (d) to read as follows (additions shown in bold, underlined text):

"**(d) Deviations not to exceed two percent (2%) of the height requirements governing public recreation and community centers.**"

D. Gross Floor Area.

The Department agrees with OP that there should be no limitation on gross floor area. The restrictions inherent in lot occupancy and floor area ratio ("FAR") are more than sufficient to control the footprint and density of any new center. Please be reminded that the Department is dedicated to a policy of preserving open space and does not have the resources to purchase properties abutting its properties to increase lot size. Based on the current list of centers being proposed under the Department's capital budget program, the largest center in terms of lot occupancy in a residential district is the Takoma Recreation Center which has a 29% lot occupancy. The building at the Takoma Recreation Center also has the largest gross square footage (i.e., 51,000 sq. ft. GFA). The restrictions on FAR and lot occupancy, with the Department's proposed revisions, we believe, are sufficient to minimize adverse impacts.

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Thank you for the opportunity to comment on these proposed regulations.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____ By: _____
Jacques B. DePuy Lyle M. Blanchard

cc: Deputy Mayor Carolyn Graham
Deputy Mayor Eric Price
Mr. Neil Albert
Mr. Andrew Altman
Mr. William Highsmith

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