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August 28, 2003

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VIA HAND DELIVERY

Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Arthur Capper/Carrollsburg PUD
Z.C. Case Nos. 03-12 and 03-13

Dear Commissioners:

On behalf of the applicants in the above-referenced cases, we are submitting herewith an original and twenty copies their Proposed Findings of Facts, Conclusions of Law and Order. A response to issues raised by Mr. David Meadows in his letter dated August 15, 2003, is submitted separately.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: Carolyn Brown
Whayne S. Quin
Carolyn Brown

Attachments
cc: Advisory Neighborhood Commission 6B
Advisory Neighborhood Commission 6D
D.C. Office of Planning

ZONING COMMISSION
District of Columbia
Case 03-13
Exhibit 59

ZONING COMMISSION
District of Columbia
CASE NO.03-13
EXHIBIT NO.59

**BEFORE THE DISTRICT OF COLUMBIA**
**ZONING COMMISSION**

**ZONING COMMISSION CASE NOS. 03-12 and 03-13**
**Preliminary and Consolidated Approvals for a Planned Unit Development and Map Amendment for the Property Generally Bounded by 2nd Street, S.E., 7th Street, S.E., Virginia Ave., S.E. and M Street, S.E.**

**Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S and 882 and portions of Squares 737, 799, 824, and 880**

**[Date of Final Action]**

# APPLICANT'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on July 24 and 28, 2003, to consider applications from Capper/Carrollsburg Venture, LLC, the District of Columbia, the District of Columbia Housing Authority and Square 769, LLC (collectively the "Applicants"), for preliminary and consolidated review and approval of a planned unit development in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S and 882 and portions of Squares 737, 799, 824, and 880, and related map amendment to rezone Square 767, and the southern portions of Squares 768 and 882 and the northern portion of Square 769 to the CR District. The Commission considered the applications pursuant to chapters 24 and 30 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the applications.

## FINDINGS OF FACT

### The Applications, Parties and Hearing

1. On March 21, 2003, the Applicants filed applications with the Zoning Commission for preliminary and consolidated approval of a planned unit development ("PUD") and related map amendment for property located in the southeast quadrant of the city and generally bounded by 2nd Street on the west, 7th Street on the east, Virginia Avenue on the north, and M Street on the south. Consisting of approximately 33 acres of land area, the PUD site includes all property in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S and 882 and portions of Squares 737, 799, 824, and 880. The site is presently zoned R-5-B, except for Squares 737 and 739, and the southern half of Square 769, which are zoned C-3-C. The Applicants are seeking preliminary review and approval for the entire PUD site, consolidated review and approval for Squares 797, 798, 824, 825, 825S,

and 880, and an amendment to the zoning map to rezone Square 767 and the southern portions of Squares 768 and 882 and the northern portion of Square 769 to the CR District.

2. The Applicants are Capper/Carrollsburg Venture, LLC, the District of Columbia, the District of Columbia Housing Authority and Square 769, LLC. Capper/Carrollsburg Venture, LLC is a joint venture of Mid-City Urban, LLC and Forest City Enterprises. Square 679, LLC, is a subsidiary of the William C. Smith & Co.

3. The purpose of the PUD is to implement a revitalization plan at the site of the Arthur Capper/Carrollsburg Dwellings, a public housing community owned by the District of Columbia Housing Authority ("DCHA"). The project is funded in part by the HOPE VI Program of the U.S. Department of Housing and Urban Development, which targets the replacement and revitalization of severely distressed public housing and includes supportive services for residents to help them achieve self-sufficiency.

4. After proper notice, the Zoning Commission held a hearing on the applications on July 24 and 28, 2003. The parties to the case were the Applicants, Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the property is located, and ANC 6B, an affected ANC which borders the PUD Site at the north along the Southeast Freeway and Virginia Avenue, S.E., and to the east at 7th Street, S.E.

5. At its duly noticed meeting held July 14, 2003, Advisory Neighborhood Commission ("ANC") 6D, the ANC in which the subject property is located, voted 4-0-2 to oppose the PUD. The ANC also appeared as a party in opposition at the hearings. While recognizing the many positive aspects of the project, the ANC asserted that the (i) taking of approximately 15 existing private homes over the course of the entire project by eminent domain; (ii) the absence of a final and operational CSSP program to equip the resident with the necessary tools to assure their ability to return to their homes; and (iii) the excessive density of the overall project.

6. ANC 6B submitted a report and testified at the hearing as an affected ANC due to its immediate adjacency to the PUD project, ANC 6B voted to support the consolidated PUD but withheld support for the preliminary PUD pending further clarification of certain concerns. ANC 6B voiced its concern over the possible isolation of the neighborhood and the apparent lack of open space within the heart of the site. The ANC also expressed its uncertainty over the amenities package as it related to the recreational facilities provided by the nearby new Marine barracks. Similarly, the ANC argued that the construction and operation of the community center was not adequately defined. Finally, the ANC urged that the height of the commercial buildings along M Street were too tall and would overshadow the smaller Van Ness School, the new small-scale

rowhouses of the PUD and the nearby low-rise buildings along 8th Street, which has a 45-foot height restriction due to the 8th Street Overlay.

7. Persons in support of the application included the Capper Carrollsburg On-the-Hill Community Development Corporation ("CDC"), the Carrollsburg Resident Council, Arthur Capper Senior Resident Council, and twenty individuals currently residing in the Capper/Carrollsburg housing.

8. David Meadows, a property owner residing at 305 K Street, S.E., which is located within the preliminary PUD boundaries and is identified for acquisition by DCHA, initially requested to appear as a party in opposition to the applications. After considerable dialog with the Commission at the July 24th hearing, where Mr. Meadows was informed in detail of the rights and implications of party status, Mr. Meadows withdrew his request and elected to testify as a person in opposition. The Commission again clarified the distinction between persons and parties at the July 28th hearing for Mr. Meadows, and informed him that because he specifically elected to participate as a person, he could not subsequently change his status to that of party. While Mr. Meadows thereafter asserted he was granted party status, the Commission rejects this assertion. Mr. Meadows, at his own request, participated in the proceeding solely as an individual person.

9. Other persons appearing in opposition to the consolidated and preliminary PUDs included St. Paul's AUMP Church, the Committee of 100 on the Federal City (Committee of 100), the Capitol Hill Restoration Society, Debra Frazier on behalf of the Friends and Residents of Arthur Capper/Carrollsburg, Agnes Taylor, Olena Oliphant, Burnetta Coles, Richard Wolfe, Brother Chris, Paul Pumphrey and Amil Mohammed.

10. As a preliminary matter, the Capitol Hill Restoration Society ("CHRS") sought to dismiss the applications on the grounds that they were not signed by each owner of property included in the area to be developed as required by section 2406.5 of the PUD regulations. Specifically, the applications included fifteen private properties in the preliminary PUD application for which owners signatures were not obtained. DCHA intends to acquire these fifteen properties through a negotiated sale or eminent domain proceedings. CHRS asserted that the lack of required signatures rendered the application incomplete and no application can be processed before it is complete pursuant to section 2406.3.

11. Based on the advice of the Office of Corporation Counsel, the Commission finds that it may proceed with a preliminary PUD application involving privately owned property which a government agency intends to acquire by negotiated sale or eminent domain because an owner's rights will not be affected by preliminary approval. The Commission further finds, however, that the second stage PUD may not be processed without the required signatures of all affected private property owners.

12. The Commission also questioned as a preliminary matter whether Square 882 meets the contiguity requirement of section 2401.3 of the PUD regulations. That section provides that all property included in a PUD shall be contiguous, "except that the property may be separated only by a public street, alley, or right-of-way." Square 881, which is directly north of Square 882, is also located within the PUD, but only its western portion. As a result, these two parcels in Square 881 and 882 are located diagonally across L Street from one another, instead of directly across the street from one another. Based on the memorandum dated July 24, 2003, prepared by the Applicants, and the recommendation of OP, the Commission finds that Square 882 meets the contiguity requirement for the PUD. The Commission concludes that this requirement was to ensure against an applicant piecing together several disparate properties that would not otherwise meet the minimum area requirements for a PUD. In that manner, virtually any area, by knitting together separate parcels, could qualify for PUD treatment. Here, the entire project includes almost 33 acres, including public space, which is well in excess of the required amount of land area for a PUD in any District. Square 882 consists of 158,000 square feet of land area, or more than 3.5 times the minimum required land area of one acre in the R-5-B District. Additionally, while not located directly across L Street from one another, the parcels in Square 881 and 882 are diagonally across from one another, thereby meeting the spirit, if not the technical requirement of the regulation. Moreover, Square 882 is an integral element in providing the necessary commercial office space to subsidize the HOPE VI housing objectives of the PUD. Thus, the Applicants meet the requirements of section 2401.3 with respect to Square 882.

13. The Zoning Commission also considered a request from the Applicants and the D.C. Department of Housing and Community Development ("DHCD") to waive the hearing fees for the applications. Under section 3042 of the Zoning Regulations, the Commission may grant a request from the DHCD to waive the normal hearing fee to permit the construction of a low or moderate income subsidized housing development. A subsidized housing development is defined as "a housing development that receives funding from a recognized District of Columbia or federal government housing subsidy program." In support of their request, the Applicants stated that the subject development has been awarded funding from the U.S. Department of Housing and Urban Development through the HOPE VI program. The DCHA is playing a major role in the development, which itself is a major component of city-sponsored efforts to create a major new center along the Anacostia Waterfront.

14. Based on the calculations provided by the Applicants, the hearing fee for the project is as follows: $50,000 for the residential portion; $77,100 for the non-residential portion ($75,300 for the office and retail component and $1,800 for the new community center), for a total of $127,100 for the PUD applications. A separate hearing fee charged for the map amendment application is $28,595. Pursuant to section 3041.5, however, in the case

of an application combing two or more actions, the fee charged shall be the greatest of all the fees computed separately, or in this instance $127,100.

15. While a public housing development as described above would normally qualify for a waiver of the hearing fees, the Commission questioned whether in this instance the entire project is eligible since a major portion of the project consisted of commercial office space and market-rate housing. The Applicants argued that the proceeds from the sale or lease of the land are needed to pay for the costs of the public housing. DCHA needs to realize approximately $33 million from those transactions, which can only be accomplished by maximizing the development potential and, thus the land value, through the rezoning and PUD process. The Applicants stated that the 702,000 square feet of office space is an important economic part of the equation. Similarly, the 51,000 square feet of retail uses are also a critical element for the overall success of the project since they will provide necessary services to all residents and occupants. Additionally, the project includes an 18,000 square foot community center which will contain support programs aimed to assist the low and moderate income families resident in the project. The Applicants argued that requiring the payment of a hearing fee will divert city resources from the ends to which they should be directed and will merely be a redirection of funds within the overall city budget.

16. The Zoning Commission finds that waiver of the hearing fees for the entire PUD project is appropriate. The project will include the construction of 695 on-site public housing units and fifty home ownership units receiving funding from the Housing Choice Voucher program, spread throughout the project in the low, mid and high rise buildings, as well as in the two senior buildings. There will be no public housing precinct *per se*, and thus it is unwarranted to separate the public housing segment from the commercial and market-rate development. The Commission finds that the public housing portions of the project are intrinsically linked with the commercial development in order to achieve the goals of the HOPE VI program, and thus the entire project qualifies for a waiver of the hearing fees.

17. At its _____, 2003, hearing, the Zoning Commission took proposed action by a vote of _____ to approve with conditions the applications and plans that were submitted to the record.

18. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated _____, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

19. The Zoning Commission took final action to approve the application on _____.

## The PUD Project

Overview

20. The proposed project is intended to replace and redevelop the Arthur Capper/Carrollsburg complex, one of the most severely deteriorated public housing projects in the city. The new mixed-income, mixed-use development will be composed of approximately 1,650 residential units, including 707 public housing replacement units. Additionally, the PUD will include approximately 732,000 square feet of office building space, of which approximately 30,000 square feet will be devoted to first-floor retail uses. Approximately 21,000 square feet of additional neighborhood retail space will be located in high-rise residential buildings along 2nd Street. The site is will have an aggregate floor area ratio ("FAR") of approximately 2.21.

21. The concept for the project has been developed in conformance with the design guidelines for this area established in conjunction with the District of Columbia Office of Planning ("OP"). Through numerous meetings with the Applicants, standards were created for building height and programs, building lines, and urban design to help redevelop the Capper/Carrollsburg site and the adjacent M Street corridor in a complementary, coordinated fashion. As a result of these guidelines, the PUD will be a project of exceptional design that not only revitalizes a depressed segment of the city, but produces an enhanced image and new identity for the District.

22. The site is presently improved with the Arthur Capper Senior Building and Family Dwellings and the Carrollsburg public housing complexes for families and senior citizens. The Carrollsburg complex includes the Carroll Apartments at 410 M Street and the Carrollsburg Dwellings at 400 L Street. The Carroll Apartments is a sixty unit, high-rise facility for elderly residents, which will remain, and the Carrollsburg is a complex of twenty-eight two- and three-story townhouses containing 314 units. Surrounding the Carrollsburg complex is the Arthur Capper Development, which consists of ninety-six townhouse units, a nine-story seniors building, and the former Arthur Capper mid-rise buildings, three of which have been demolished. Because of the deteriorated condition of most of the Capper/Carrollsburg buildings, the Generalized Land Use Policies Map of the Comprehensive Plan has designated the area a Housing Opportunity Area to encourage affordable residential redevelopment.

23. Consistent with that designation, the redevelopment plan provides for the replacement on a one-for-one basis all of the public housing units that will be demolished. Thus, there will be no diminution of the stock of available public housing units as a result of the

planning development. The site also includes the Department of Public Works facility on New Jersey Avenue and I Street, S.E., the Canal Park Blocks and several privately owned properties in Squares 799 and 800, which DCHA intends to acquire.

Description of Surrounding Area

24. The area surrounding the PUD site is characterized by a mixture of uses. To the south and west are new commercial office buildings, the Washington Navy Yard, the site of the Southeast Federal Center, and the proposed new headquarters of the U.S. Department of Transportation. Portions of the area, however, particularly to the west, are still underutilized and consist of vacant land or abandoned industrial or manufacturing structures. To the east is the 8th Street corridor, a north-south axis that terminates at the Navy Yard entrance. Several medium density commercial and industrial buildings line 8th Street, including entertainment and auto-related uses, many of which are in disrepair. The Southeast-Southwest Freeway and Virginia Avenue act as the northern boundary of the site, with the Capitol Hill neighborhood lying to the north of these roads.

**Proposed Redevelopment Under the HOPE VI Program**

Existing Conditions

25. The existing Arthur Capper/Carrollsburg Dwellings were constructed in the early 1940's as part of a major urban renewal effort that included the Ellen Wilson Dwellings to the north. Over the years, the public housing complex has deteriorated to a point beyond any further practical use. The properties are economically and functionally obsolete. In an effort to revitalize this residential complex into a stable, mixed-income community, DCHA sought assistance from the HOPE VI Program of the U.S. Department of Housing and Urban Development.

The HOPE VI Program

26. The HOPE VI was developed as a new, comprehensive public housing initiative for the country's most vulnerable citizens. Arising from a Congressional inquiry into the state of the nation's public housing communities in 1992, the program's aim was to remove 100,000 "severely distressed" public housing units from the inventory, starting with family high-rise buildings. Since its inception, HOPE VI has awarded over 150 grants totaling more than $7 billion toward the demolition and replacement of public housing. DCHA has been awarded five HOPE VI grants, including the award for the Capper/Carrollsburg Dwellings. These grants total over $140 million. This has allowed DCHA to demolish and replace units in some of its most distressed communities. HOPE VI grants are awarded on a competitive basis and requests usually outweigh available dollars by more than three to one. Therefore, the projects that are selected represent the

best candidates for revitalization, having the most impact not only on the affected public housing development, but also on the surrounding community.

27. The HOPE VI program is distinguished from previous urban renewal and housing initiatives by its the mandate that each grant request include a Community and Supportive Services Program (CSSP). The CSSP is intended to work in tandem with the basic goals of Welfare Reform, enabling lower income families to receive services and acquire the skills to lead them to self-sufficiency. The CSSP represents $29 million ($3.5 million from the HOPE VI grant and $25,697,953 from private sources) in services to public housing and other low income residents of the community. Services to be provided include day care, adult literacy and GED, computer training, and health care. Case management services will allow for each participant to have an individual service plan devoted specifically to the participant's needs. Participation in the CSSP is a requirement for public housing residents to gain readmittance to the community, unless otherwise exempted because of age, disability or current full time employment.

HOPE VI Funding

28. The HOPE VI grant for Capper/Carrollsburg is $35 million. When complete, the new community will have over 1645 residential units for sale and rent, approximately 21,000 square feet of new retail space in the high-rise residential buildings, and over 732,000 square feet of new office and first floor retail space, creating a highly desirable place to live, work and shop in the District. Because of the market value of the land, DCHA will be able to replace all 707 public housing units slated for demolition. This one-for-one replacement of public housing is unique not only in the District, but around the country, and eliminates a shortcoming of earlier HOPE VI projects.

29. The Applicants testified that while the $35 million grant from the HOPE VI program is substantial, that amount alone would not be enough to replace the 707 public housing being demolished. Using a conservative estimate of $100,000 per unit as a replacement cost, that would require over $70 million, roughly twice the grant amount. Therefore, the ability to leverage other public and private resources becomes that more important, not only to preserve public housing and affordability as a matter of public policy, but also to establish a mixed-income community with the requisite amenities. A critical element of that leveraging is the ability to maximize the market value of the underlying land – that is, maximizing the appropriate development potential under the PUD guidelines of the zoning regulations. According to the Applicants, while the project financing is complex, the concept is simple: HOPE VI dollars, plus proceeds from the sale or lease of land, and the investment of private capital for the nonresidential uses will provide the necessary funding to subsidize the one-for-one replacement of the public housing. Only through this development potential can the HOPE VI goals be realized and the opportunity to knit together the stable Capitol Hill area and planned development at the South East Federal

Center be achieved. The Applicants will use the value of the land's development potential to leverage another $400 million in public and private investment.

**Description of Project Components**

Western Portion of Site: High-Rise Apartments and Office Building

30. Under the preliminary PUD approval process, the Applicants propose to develop the western portion of the PUD site along 2nd Street, S.E., the former location of the city canal, with high-rise rental and condominium buildings and a commercial office structure. In order to achieve the desired height for these buildings, the Applicants are also requesting a map amendment to rezone this portion from the R-5-B to the CR District. Square 767 to the north will be redeveloped with a six-story (sixty-five-foot) apartment building containing approximately 147 units, with 6000 square feet of retail uses.. Immediately south in Square 768, the project will consist of an eleven-story (110 foot) apartment house containing 295 units and 6000 square feet of neighborhood-serving retail uses. A condominium building consisting of 107 units will be located in the northern half of Square 769, with 3000 square feet of retail space. The southern portion of that same square will be improved with an ten-story office building with first floor retail containing a total of 236,000 square feet of gross floor area.

31. The Commission questioned the appropriateness of including Square 739, also known as Reservation 17-A, and the portion of Canal Street which bisects the square, in the preliminary PUD. The Commission understood that use of Square 739 was restricted to a garbage disposal facility pursuant to a transfer of jurisdiction from the U.S. government to the District of Columbia. Based on the documentation submitted by the Applicants, however, the use of that square is not restricted to a solid waste facility. The District's current use of the site for storage further confirms that the use is not restricted. While the NPS transferred jurisdiction of the property in Square 739 to the District, the Transfer of Jurisdiction plat recorded in the Surveyor's Office does not appear to place any restriction on the use of the property. Thus, the Commission finds that the District may appropriately use Square 739 for public and market-rate housing as contemplated under the preliminary PUD.

Central Portion of Site: Low-Rise Residential and Senior Buildings

32. In the center portion of the PUD site, the Applicants propose to construct three- and four-story rowhouses. A portion of these units will be offered for sale and others will be made available for rent, at either market rate or at subsidized levels. Square 797 will consist of four groups of buildings totaling forty-seven single family row dwellings. Square 798 will provide a total of seventy-five single family rowhouses arranged in five groups. Square 824 will consist forty-one rowhouses also arranged in five clusters. Square 825

will provide fifty-seven row dwellings, and the northern half of Square 825S will include thirteen town houses. All of the proposed dwellings in Squares 797, 798, 824, 825 and 825S are included in the consolidated PUD application. The remainder of the row dwellings, which will be located in the northern half of Square 800 and the northern half of Square 882, and which will total approximately 121 single-family units, are submitted for consideration under the preliminary PUD application.

33. The central portion of the site will also include two apartment complexes devoted exclusively to senior citizens. A four-story building located in the southern portion of Square 825S will add approximately 138 new units to the existing sixty-unit senior building, while a four-story building in Square 880 will contain approximately 162 units. The senior building in Square 880 will also include a geriatric health clinic. Both senior buildings are being submitted for review under the consolidated PUD approval process. The Applicants have begun pre-development activities for the building in Square 880 to construct that building on an expedited basis as a matter-of-right and in conformance with the existing R-5-B zoning on the site. The Applicants are proceeding on this basis in order to provide relocation units to residents displaced from the current public housing complex. Thereafter, the lot on which this structure is located will be subdivided into two new record lots pursuant to an agreement with the U.S. Marines, which owns the adjacent land in Square 880. Upon subdivision, the new senior building would exceed the R-5-B density requirements on its lot. Thus, the Applicants have included this building in the consolidated PUD proposal in order to allocate the density with other properties in the PUD and bring the building into compliance on the future, smaller lot.

Commercial Office Development

34. Two nine-story (110-foot) office buildings, each consisting of approximately 248,000 square feet of gross floor area, will be constructed in the southern portion of Square 882 and provided the economic support for the one-for-one public housing unit replacement. These commercial developments are part of the preliminary PUD approval application. Approximately 15,000 square feet of the total gross floor area of each building will be devoted to retail uses on the ground floor.

Canal Park Blocks

35. In coordination with the D.C. Department of Public Works, the Applicants propose to improve the former canal parcels known as Reservations 17B (Square 767, Lot 829), 17C (Square 768, Lot 810), and 17D (Square 769, Lot 821). These blocks are currently used to house city school buses. The Applicants will remove the buses and grade and seed this strip of land in preparation for the creation of a new urban park to support the neighborhood and as a link between Capitol Hill and the Southeast waterfront.

36. The Canal Park Development Association (CPDA), a non-profit entity authorized by Act of Congress, has been established to work in a joint public/private partnership with the Government of the District of Columbia for the purpose of promoting, fundraising, designing, constructing, and maintaining the Canal Blocks Park. Current board members of CPDA include representatives of William C. Smith & Co. and Spaulding and Slye Colliers on behalf of four of the nine separate landowners contiguous to the Canal Blocks Park. Membership is open to representatives of the remaining contiguous landowners, as well as public entities actively participating in the revitalization of the District's near Southeast. The CPDA has received commitments to join the board from the JBG Companies, as developer of the U.S. Department of Transportation headquarters, and Capper/Carrollsburg Venture LLC. The CPDA has received $5,462,000 to date in contributions and commitments for the Canal Blocks Park. The CPDA has deposited $2,500,000 in funds received from Congress through the Fiscal Year 2003 Appropriations Act (P.L.108-7). The JBG Companies, in conjunction with its development of the U.S. Department of Transportation headquarters building, has pledged $2,500,000 for development of the Canal Blocks Park. William C. Smith & Co., Inc., in conjunction with the development of four parcels contiguous to the Canal Blocks Park, has pledged $325,000 to CPDA. Mid City Urban LLC and Forest City Enterprises, through their participation in Capper/Carrollsburg Venture, LLC, have pledged $137,000 to CPDA. Lastly, the OP has committed an unspecified amount of funds through a matching NEA grant that can be used to hold a public design competition.

37. Several studies have been conducted for the development of a park along this former canal area and the Applicants will work with the city and other interested parties to help these plans come to fruition. After the transfer of Square 739 from the D.C. Department of Public Works to DCHA, the Applicants will also develop a mid- to high-rise residential building on this site.

**Project Design**

38. The PUD project has been designed to achieve a high quality composition of commercial, retail and residential uses in a cohesive urban setting. The project fulfills the design goals and objectives established by the Office of Planning and the Applicants pertaining to building height and programs, building lines, and urban design elements for each segment of the project (the "Guidelines").

Preliminary PUD Approval: Commercial Buildings in Squares 769 and 882

39. The Applicants' architect testified that one of the primary urban design goals for the Capper/Carrollsburg project is to continue the M Street corridor as the primary mixed-use segment of the neighborhood and of the larger district within which it is located. A key element to achieving this goal is to maintain building edges and established street walls,

particularly in relation to the existing office building at Square 800, and to ensure that retail and lobby spaces meet these well-defined edges. Additionally, the architect testified that building heights should be at the 110-foot level to respect the vision for M Street as a primary mixed-use avenue. The Guidelines further recognize the importance of the 2nd and M Street corner as a significant urban design place that establishes both a termination to M Street at the former canal reservations and a gateway to the park envisioned for those canal blocks. Consistent with these design goals and objectives, the project architects designed the commercial buildings in Square 769 and 882, which are part of the Preliminary Approval PUD, to meet the recommended height of 110 feet, to maintain building lines and street walls, and to reflect their important identifying role in the overall project through appropriate architectural expression and building materials.

Preliminary PUD Approval: High-Rise Residential Buildings at the Canal Blocks

40. The Guidelines for the project identify the Canal Park as the most significant spatial focus within the neighborhood plan. This space is intended to serve as a open green area within the urban pattern of buildings and streets, in deference to the L'Enfant Plan. Under the guidelines, buildings fronting on this space are must be carefully designed in order to define both physically and spatially the former canal reservations. At the same time, the new mixed-income apartments that will border the east side of these blocks should make a transition 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. Consistent with these goals and objectives, the residential buildings in Squares 767, 768 and 769 have been designed to respect their important location on the canal blocks through appropriate heights, building lines, façade organization, and materials. The façade of the buildings fronting on the Canal Park 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. Balconies, pilasters, and other elements will be introduced to the facades of the buildings to create a three-dimensional quality. Buildings will be faced in brick, stone, concrete, metal or glass to maintain a superior architectural quality.

Preliminary and Consolidated PUD Approval: Low-Rise Residential

41. A major design objective for the low-rise residential buildings under the Guidelines is to create an cohesive urban community that reflects the diversity of architectural styles and forms found in the adjacent Capitol Hill Historic District. The low-rise buildings will incorporate the successful patterns and identifying characteristics of Washington rowhouse development in the new building designs to produce recognizable but distinct features for the Carrollsburg neighborhood. Constructed to heights of three and four stories, the majority of the row dwellings will be built to the front lot lines in order to

maintain the street walls, with intermittent setbacks to avoid monotonous patterns. Six basic styles will be introduced throughout the development, which will correspond to the hierarchy of streets in the neighborhood.

Consolidated Approval: Senior Residential Buildings

42. The Senior Building contemplated for Square 880 will be a courtyard structure abutting Virginia Avenue, 5th and K Streets, and the Marine Barracks parade ground. The size and scale of this building is appropriate to the many other institutional structures located north and south of Virginia Avenue. The Senior Building on Square 825S is adjacent to the existing sixty-foot tall senior building owned by DCHA. The addition will be 45 feet in height, and establishes a transition between the 410 M Street structure and the new single family structures to the north.

**Existing and Proposed Zoning**

43. The majority of the subject site is located in the R-5-B District, with a portion of Square 769 located in the C-3-C District. The R-5-B District is a moderate height and density area that permits all types of urban residential development, including single family dwellings, semi-detached houses, row dwellings, and apartments. The maximum height permitted in the R-5-B District is fifty feet with no limitation on the number of stories. Residential development may achieve a maximum density of 1.8 FAR. The C-3-C District is a medium-high density commercial area designed for office, retail, housing, and mixed-use developments. Buildings may be constructed to a height of ninety feet, and achieve a density of 6.5 FAR for residential or commercial uses, with a total maximum density of 6.5 FAR for any development.

44. The Applicants seek to rezone from R-5-B to CR the entirety of Squares 767 and 768, and the northern half of Square 769, between 2nd and 3rd Streets, beginning145 feet north of M Street. Additionally, the southern portion of Square 882 will be rezoned from R-5-B to CR along M Street for a depth of approximately 145 feet. The CR District is a mixed use area designed to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. The maximum height in the CR District is ninety feet. The density for all buildings and structures on a lot may not exceed 6.0 FAR, with not more than 3.0 FAR devoted to non-residential uses. Additionally, the CR District requires that an area equivalent to ten percent of the total lot area shall be provided as open landscaped space available for use by the general public on a continuous basis.

**Development Incentives and Flexibility**

45. The Applicants request the following areas of flexibility from the R-5-B requirements and PUD standards:

    a. 0.71 FAR increase (all residential) in gross floor area over existing matter of right development, which is still well below the 3.0 FAR allowed under the PUD guidelines.

    b. Aggregation of FAR and lot occupancy.

    c. Waiver of side yard setback for one lot in Square 824.

**Public Benefits and Amenities**

46. The following benefits and amenities will be created as a result of the PUD project:

    a. *Housing and Affordable Housing.* The single largest benefit to the area, and the city as a whole, is the creation of a new mixed-income, mixed-use community replacing one of the city's most severely distressed public housing developments. The one-for-one replacement of public housing units will maintain affordable housing opportunities and the infusion of market-rate housing will bring middle income families to an otherwise economically depressed area. Compared with the city as a whole, Ward 6 has some of the highest percentages of unemployment and single parent households, and some of the lowest percentages of educational attainment and household income. For example, according to 2000 census data, 43 % of persons living there earn less than $10,000 a year compared to 14 % city-wide; the median family income is $13,464 compared to $46,283 city-wide; and the unemployment rate is 10.8 % compared to 6.8 % city-wide. The wholesale redevelopment of the area, including the replacement of public housing, will complement other revitalization activities planned and underway in this area, resulting in an extraordinary benefit to the city.

    b. *Urban Design and Architecture.* The architects for the project have designed an outstanding collection of mixed use buildings of superior architecture quality that restores this pivotal segment of Southeast Washington adjacent to the Navy Yard. The proposed new buildings have been sensitively designed to complement the surrounding large-scale commercial buildings along M Street, while at the same time respect the low-rise cohesive rowhouse character of the Capitol Hill neighborhood. The overall composition reinforces the broad and lively elements of the M Street corridor and creates a rich, boundary-defining urban wall for the public spaces along Canal Park. Single-family and multi-family dwellings have

been developed in a diversity of styles and materials, which have been carefully selected to ensure compatibility and quality commensurate with the surrounding area. The development contains both affordable and market-rate units with no distinction in external design character between the two, establishing a higher than normal standard for the affordable home-ownership and public housing rental units. The Design Guidelines developed in conjunction with the Office of Planning to govern the PUD will ensure a high quality of architecture as the project moves forward. The Guidelines specifically commit to standards of quality for building materials, as well as significant features such as the location and character of ground level retail and public uses.

c. *Landscaping and Open Space.* Another aspect of the project of special value to the neighborhood is the clearing of land along the western edge of the site in preparation for the creation of a new urban park. The Applicants will have the school buses that are presently parked there removed and will grade and seed this strip of land. Several studies have been conducted for the development of a park along what was formerly a canal and the Applicants will work with the city and other interested parties to help these plans come to fruition.

d *Transportation Features.* The proposed PUD project meets or exceeds the off-street parking and loading requirements of the Zoning Regulations. The project includes a total of 1645 dwelling units in single-family and multi-family configurations; a total of 1430 parking spaces will be supplied for those units. A total of 732,000 square feet of commercial uses are included with a total of 550 off-street parking spaces. Loading berth facilities will be included for all multi-family and commercial uses in accordance with the Zoning Regulations and are shown on the architectural drawings submitted separately. The project also includes several new roadway features. First, a new north-south public street, to be designated a continuation of 6th Street, S.E., will be introduced in Square 882 as a private street. Second, a portion of L Street between the former canal reservations and 3rd Street will be re-opened. Third, a new private street will be created for the townhouse developments in Squares 798 and 799. Finally, it is anticipated that I Street will be extended in the westerly direction through Square 739 by other future development to establish the grid street system characteristic of the L'Enfant Plan in this segment of southeast Washington. With the exception of new 6th Street, these streets will be dedicated for public use either by easement or as open streets on the Highway Plan. These new street patterns, together with new traffic signals and stop signs, will greatly enhance the transportation qualities of the proposed project.

e. *Social Services and Other Uses of Special Value to the Neighborhood.* A new 18,000 square foot community center located outside of, but immediately adjacent

to, the PUD site will be of special value to the new development. It is envisioned that the center will be a hub of activity for the neighborhood and will house many of the Community and Supportive Services Programs that are contemplated as part of the HOPE VI grant. These programs include day care, adult literacy, computer training and other services aimed at helping neighborhood residents achieve self sufficiency. All of these uses comply with the definitions of public recreation and community centers under the text amendments to the Zoning Regulations adopted by the Zoning Commission at its June 9, 2003, public meeting. In addition, a major health care provider in the District has indicated an interest in locating a family clinic on the premises. Additionally, an element of the recreational programming includes a planned partnership with the neighboring Marines Ceremonial Band and Sport Facilities currently under construction. The proposed PUD includes two senior-citizens buildings, one of which will house a geriatric health clinic specifically for this population.

f. *Employment and Training Opportunities.* The proposed PUD will provide a number of employment and training opportunities. A full breadth of opportunities will be made available during construction and operation of the development. The Applicants in partnership with the resident-based Capper Carrollsburg-on-the-Hill Community Development Corporation (CCHCDC) will program and implement Section 3 employment, training and contracting elements in order to take full advantage of the construction, service and operational requirements of the redevelopment. The goal of the federal Section 3 Program is to create meaningful contracting and job opportunities for minority and disadvantaged small businesses and individuals from the area that is being redeveloped. For example, objectives established in the HOPE VI-sponsored Community and Supportive Services Work Plan calls for fifty adults in job training or apprenticeship placements and fifteen residents in Section 3 jobs annually. It is contemplated that long-term employment opportunities will accrue in the workforce development associated with the 732,000 office and retail space, and the additional 21,000 ground floor retail space along the former canal blocks. Additionally, the project will provide employment training opportunities through a Local, Small and Disadvantaged Business Enterprise ("LSDBE") Agreement, a First Source Agreement.

g. *Neighborhood Oriented Retail and Service Use.* The PUD project also includes neighborhood oriented retail and service uses to support the residential community. Approximately 21,000 square feet of neighborhood retail space will be located in high-rise residential buildings along 2nd Street

47. For the reasons discussed below, the Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public

benefits and project amenities relating to urban design, architecture, landscaping and opens space, housing and affordable housing, social services, job training and employment opportunities, and transportation measures.

**Compliance with PUD Standards**

48. Under the PUD guidelines, the Commission shall "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." Given the exceptional level of project amenities and public benefits, the Commission finds that the development incentives to increase the overall residential density by 0.71 FAR, permit a height of 110 feet along the east side of the Canal Blocks Park and for the M Street office buildings, allow the aggregation of lot occupancy and density over the entire project site, and waive the side yard requirements for one lot are appropriate.

**Compliance with the Comprehensive Plan**

49. Mr. Sher, the Applicants' expert in land planning, testified that the Project was not inconsistent with the Comprehensive Plan as follows:

a. The Generalized Land Use Map for the District of Columbia designates the 14-block area that is the subject of the PUD for residential and commercial land uses. The eastern portion of the site is designated for medium density residential uses, which is characterized predominantly by multiple-unit housing and mid-rise apartment buildings but which also may include low and moderate density housing. The western portion of the site along 2nd and M Streets, S.E., is designated for medium high density commercial uses, where the predominant use is a shopping and service area that generally offers the largest concentration and variety of goods and services outside the Central Employment Area. The block bounded by 5th, 6th, K and L Streets, S.E., is designated a District government park, recreation or open space area.

b. The PUD project is consistent with these land use categories, through its provision of low, moderate and medium density residential uses in the eastern two-thirds of the project site, and commercial office and retail development along 2nd and M Streets, S.E. The overall density will be 2.21 FAR. The District of Columbia Generalized Land Use Policies Map also designates the site as the Arthur Capper housing opportunity area (Area No. 14).

c. The project meets the policies of the Housing Element by stimulating a wide range of housing choices and strategies through the production of new units for a variety of household types, including the extension of affordable homeownership

opportunities to low- and moderate-income households and the provision of housing assistance to low- or fixed-income homeowners. The proposed PUD will not only replace obsolete, non-functional housing with modern dwellings, but it will provide one-for-one replacement of public housing units demolished in connection with the redevelopment.

d. The proposed PUD fosters the Economic Elements by revitalizing the M Street, S.E., corridor with commercial office space for businesses attracted to the area by the Southeast Federal Center, immediately south of the project site, and its anticipated major tenant, the Department of Transportation. The mixed-income housing under the PUD will also enhance and stabilize the residential neighborhood. Finally, the CSSP provides for economic development and self-sufficiency programs, such as job training and placement, GED classes, business development opportunities, day care, transportation, violence prevention, after school programs for youth and medical services for elderly residents. These programs fulfill the economic development policies of the Comprehensive Plan to prepare its labor force with the education and occupational skills to participate effectively in the District's economy and to provide affordable, quality child care for parents to enable them to work, seek employment, complete school and participate in job training programs.

e. The master plan for Capper/Carrollsburg dwellings enhances and supports the major Urban Design Elements of the Comprehensive Plan. The replacement of the existing barracks-style public housing complex with a mixed-use, mixed-income community patterned on neighboring Capitol Hill will protect and enhance that Historic District. The new neighborhood plan respects and enhances features of the L'Enfant plan contained within the project boundaries. Those features include the Cartesian street grid, from 2nd to 7th Streets and M Streets to Virginia Avenue. The right-of-way dimensions of these streets will be respected and their overall character transformed by the replacement of the existing public housing structures, with their suburban planning character, with continuous building fronts, establishing a street volume and building massing in keeping with the District's character. The L'Enfant plan street grid will also be enhanced by the introduction of a new public street, 6th Street north of M Street, and by beginning the transformation of the former canal right-of-way at Reservations 17 B, C and D, from their current use as a bus parking lot for the District of Columbia schools to a passive park. The wholesale redevelopment of this neighborhood with its diversity and high-quality of architecture, and sensitive massing and scale establishes a positive image for this formerly distressed public housing community.

f. The proposed PUD meets the goals of the Land Use Element by eradicating urban blight created by deteriorated public housing and replacing it with high

quality residential units of varying types in the Capper/Carrollsburg Housing Opportunity Area. The superior design of the proposed development will enhance and revitalize this residential segment of Ward 6, thereby stimulating new development and job opportunities.

g. The PUD fosters the policies of the Transportation Element and makes the proposed development attractive in terms of access and internal circulation. First, the development site is easily accessible via M and South Capitol Streets, as well as other major roadways, which provide access to Downtown, and to the broader metropolitan region. Second, the site is situated in close proximity to the Navy Yard Metrorail Station and along several bus routes. There are also several nearby existing and planned employment centers, including the Capitol Hill area, the Navy Yard and the proposed Southeast Federal Center. Additionally, several schools and community-serving facilities are located within the immediate area. Finally, the proposed development will include local-serving retail, and a new community/day care center. Together these factors will significantly reduce the trip generation and related impacts of the proposed development, particularly during the morning and afternoon peak travel periods. The introduction of new private and public streets to serve the residential enclave will also help separate local traffic from through-traffic within residential neighborhoods and complete segments of the street system necessary for smooth traffic flow. Sufficient parking is provided by the approximately 2,000 off-street parking spaces and approximately 480 on-street spaces proposed in the PUD area, which significant exceed the number of spaces required by the zoning regulations. As noted in the traffic study, these spaces will be distributed adequately to serve the projected demands for the various land uses. The various roadway improvements planned for the development area will also enhance vehicular and pedestrian access, circulation and safety, in furtherance of the goals and objectives of the Transportation Element.

h. The Zoning Commission also finds that the Project is consistent with the Ward 6 Element in the following ways:

(i) The proposed PUD furthers the Ward 6 Economic Development Element through the introduction of new commercial office space and retail services along the M Street corridor to support the mixed-use neighborhood. The proposed development will also stimulate economic activity by attracting new businesses and households to the area.

(ii) The PUD project directly supports and achieves these objectives of the Ward 6 Housing Element by replacing the existing, severely deteriorated and obsolete public housing units at Capper/Carrollsburg with a new

residential development that mirrors the variety of housing types in Ward 6. The comprehensive and innovative approach of the HOPE VI project will enhance neighborhood stability through home ownership opportunities and units geared toward a mix of income levels. The replacement of units on a one-to-one basis further achieves the goals of the Ward 6 Plan by maintaining the number of public housing units available to low- and moderate income-level families.

(iii) The proposed PUD meets the objectives of the Ward 6 Transportation Element through a traffic management measures that include the creation of new public and private streets to serve the residential enclaves, with appropriately located traffic controls throughout the PUD site. The provision of on- and off-street parking spaces well in excess of the zoning requirements, and the close proximity of public transportation, will ensure the smooth flow of traffic to and from the residential, commercial and retail nodes of the development, in furtherance of the Ward 6 transportation element.

(iv) The plan and design of the new Capper/Carrollsburg Dwellings responds to the Ward 6 Urban Design objectives. The high quality of architectural design for the low-rise residential buildings included within the boundaries of the Consolidated PUD is derived from Ward 6 structures, preserving the character of the neighborhood. New single-family and multi-family buildings are patterned on Capitol Hill urban and architectural patterns. A Victorian-inspired architectural design, which includes rowhouse elements that are specifically found in Washington, such as the corner turret and the rectangular bay, reinforce the character of Capitol Hill, extending it across the elevated highway. The incorporation of these various design elements into street elevations continues the diversity that is an integral part of Capitol Hill townhouse blocks. These design features will be complemented and enhanced by building materials, including brick and siding in a variety of colors. The new Senior Building on Square 880 that abuts Virginia Avenue is similar in mass and scale to the many institutional buildings located along its length within Capitol Hill. The articulation of the building's design is consistent with the overall architectural vocabulary of the neighborhood. The new Senior Building at M Street, adjacent to the existing apartment building owned by the District of Columbia Housing Authority at 410 M Street, conversely adopts a more modernist language. This creates a sensitively conceived assemblage of structures that are compatible with the general character of new buildings along M Street. The careful placement of the various building types and programs ensures a compatible relationship between commercial and

residential uses. The new office building at the corner of 2nd and M street, including approximately one-third of the new commercial space, will abut a new 110 foot high-rise residential building. Design Guidelines for both of these buildings as well as a public alley that separates them ensures an appropriate relationship between the two buildings. The PUD includes the comprehensive reconstruction of streetscapes within the project boundaries in support of a primary urban design goal of the Ward 6 Comprehensive Plan. Improvements to existing residential streets include the replacement of existing sidewalks, trees, lights and grass strips. Improvements also include a variety of designs for the front yard space between the sidewalks and the new row houses. The variety and quality of these front yard areas will endow these new streetscapes with the character typical of those found within the rowhouse neighborhoods of the Capitol Hill historic district, which will constitute a substantial improvement over the deteriorated and institutional character of existing streets. The maintenance of a significant portion of these new front yard spaces, specifically those associated with public housing rental units, by a private management company will ensure a high standard of safety, security and quality of appearance in these public spaces in the future. The community association for the townhouses will maintain the landscaped areas within its residential development area, thereby ensuring the attractive appearance of all segments of the PUD.

(v) The proposed PUD meets the objectives of the Ward 6 Land Use Element by replacing obsolete and severely deteriorated public housing units with modern new facilities on a one-to-one ratio, thereby maintaining the general level of residential uses and densities. The rowhouses, apartment buildings and commercial office structures all mirror the existing heights of corresponding building types in the immediate vicinity of the project site and Ward 6 in general. This urban renewal and neighborhood revitalization effort will promote a healthy, safe and attractive residential environment for Ward 6 residents.

**Office of Planning Report**

50. By report dated July 16, 2003, and through testimony presented at the public hearing, the Office of Planning ("OP") recommended conditional approval of the PUD application. OP strongly supported the applications and found that the proposed PUD is consistent with the Comprehensive Plan and the Generalized Land Use Map. While OP noted that the Map does not clearly designate the PUD areas for mixed-uses, OP concluded that when viewed as a whole, the PUD achieves the type and scale of uses the Land Use Map Supports for this area. The Commission concurs in this assessment. The Generalized

Land Use Map adopted as part of the Comprehensive Plan shows that most of the Project is included in the medium density residential land use category. The DPW site at New Jersey Avenue and I Street and the southern half of the blocks between L and M Streets and 2nd and 3rd Streets are included in the medium-high density commercial category. The site of the recreation center is included in the parks, recreation and open space category. The Generalized Land Use Policies Map includes the project area in a housing opportunity area. The proposed Project is consistent on an overall basis with these land use designations. The overall FAR for all residential uses on all the property included is 2.28, which falls between the matter-of-right levels of the R-5-B and R-5-C Districts. The overall FAR for all retail and office uses on all the property included is 0.83, less than the matter-of-right density in the lowest density commercial zone. That density is concentrated in two locations, along the Canal Blocks Park and on M Street across from the Navy Yard.

51. OP further concluded, and the Commission finds, that the location of the two office buildings proposed for Square 882 are also consistent with the Comprehensive Plan. The office buildings are logically located along the M Street corridor as a result of the commercial development that has already begun to line M Street, and the proposed office development at the Southeast Federal Center. The alignment of the 600 block office buildings directly across from the Navy Yard further attests to the appropriateness of the office components along this emerging commercial corridor.

52. OP also testified that the project is otherwise consistent with the major themes and elements of the Comprehensive Plan and stated that the PUD provides an "almost textbook example" of how a PUD is supposed to function. It stated that the PUD employs zoning incentives in certain locations while at the same time respecting the existing zoning's average density on a scale not normally seen in the District. The Commission concurs in OP assessment and likewise credits the testimony of Mr. Sher on the project's compliance with the Comprehensive Plan.

53. OP conditioned its approval on the following ten items:

a. Vesting of the consolidated PUD prior to approve of the second stage PUDs;

b. Applicants' submission of a table and plans demonstrating parcel by parcel compliance of the consolidated PUD with the zoning regulations, and/or any relief needed;

c. Clarification of CSSP and similar funding the Applicants or other agents will provide to future PUD residents as part of the PUD, in excess of the support services currently provided to Capper-Carrollsburg residents;

d. Provision of decks with a minimum depth of six feet, instead of the proposed four-foot depth, wherever possible;

e. Completion of detailed arrangements for public access to playing fields on Reservation 19-A, prior to approval of any second stage PUDs;

f. Clarification for the record, of the applicant's direct and in-kind contributions to the Canal Blocks park, exclusive of land value;

g. Provision of granite curbing and brick gutters for both sides of the eastern section of 2nd Street between I and M Streets; the new 3rd Place and all other new private streets; and any public streets that require reconstruction due to the impact of the PUD's development;

h. Applicants' receipt of DDOT sign-off for location of the new private street, 6th Place;

i. Provision of additional information concerning agreements with the Community Development Corporation on pre-apprenticeship and other skill-building programs for neighborhood residents; and

j. Provision of 14-foot floor-to-finished-ceiling heights for all ground floor spaces programmed for retail use in the CR zone.

54. In response to OP's recommendations, the Commission finds as follows:

a. Vesting of the consolidated PUD prior to the approval of the second stage PUD will help ensure that the PUD does not languish. Accordingly, the Commission finds it appropriate to require that the Applicants not file an application for second stage approval until the covenant for the consolidated PUD has been recorded.

b. The Applicants have provided, through the testimony of their expert in land planning and in their post-hearing submission, sufficient clarification of the parcel by parcel compliance of the consolidated PUD with the zoning regulations. The Applicants have requested flexibility from the R-5-B standards to allow for an aggregation of FAR and lot occupancy and a waiver of the side yard setback for one lot in Square 824. The Commission finds this minor flexibility appropriate in order to accomplish the laudable goals of this project.

c. The Applicants have provided clarification of the CSSP and similar funding, in excess of the support services currently provided to Capper/Carrollsburg

residents, in their post-hearing submission dated August 14, 2003. The HOPE VI program allows up to 15% of the grant to be allocated for CSSP activities, or in this instance, $3.5 million. This amount serves to leverage additional in-kind services at a projected value of $25,697,953.00 from 40 different organizations. These services will include job readiness and skilled training programs; community empowerment; business development for entrepreneur start-ups; GED attainment; youth education and recreation; homeownership, senior services; family services; regular community events; exercise and recreational programs; meal services; utility payment assistance; transportation services for senior citizens; and access to health insurance.

d. The Applicants will provide decks with a minimum depth of six feet on each public housing unit, except on certain corner units where decks are not possible. The market-rate housing will include decks with a minimum depth of four feet, except on certain corner units where decks are not feasible. Mr. Youngentob, representative of the townhouse developer Eakin Youngentob Associates, testified that the four- and six-foot decks provide sufficient outdoor space for the occupants and that they have been a successful model in other market-rate communities. The Commission credits the testimony of Mr. Youngentob and finds the depth of the decks to be sufficient.

e. The Applicants have agreed to provide detailed arrangements for public access to playing fields on Reservation 19-A, prior to the approval of any second stage PUDs.

f. The Applicants have provided clarification of the contributions to the CPDA, as described in Finding No. 36 above.

g. Based on testimony of record and post-hearing submissions, the Applicants' baseline streetscape section is a concrete curb and gutter, a five-foot planting strip behind the curb, and a six-foot concrete walk. Certain enhancements will be made to M Street and Second Place, two special streets within the PUD. Exposed aggregate concrete, concrete pavers, London pavers or brick pavers will be used along these streets. The Applicants have further committed to provide enhancements to the baseline materials should the budget allow, first to 3rd Place, and then to 3rd and 4th Streets, respectively. The Applicants will also continue their discussions with DDOT for the second-stage PUD on the necessary street repair/repaving, and will replace materials in-kind as a result of an damage during construction, consistent with the DDOT standards. The Commission finds that these streetscape improvement efforts are sufficient and appropriate for the proposed PUD, in light of the complex financing of the

project, the leveraging of funds and the priority to be given to the one-for-one replacement of public housing units.

h. The Commission concurs that the Applicants should, as part of their continuing discussions with DDOT, coordinate on the appropriate location for the new private 6th Place.

i. Through its post-hearing submission, the Applicants have provided additional information on the pre-apprenticeship and skill-building programs for neighborhood residents to be coordinated by the CDC.

j. With respect to fourteen-foot ceiling heights for retail space, OP testified that retailers have consistently stated that this additional height is necessary for quality retail. OP requested that the Applicants make adjustments now, even though this portion of the development is part of the preliminary, rather than the consolidated PUD. The Applicants responded that greater ceiling heights on the first floor will result in the loss of a floor above, because of limitations on building height and the floor-to-floor heights required for the office or residential floors above. The Commission finds that there is no requirement under the Zoning Regulations for a 14-foot ceiling height for ground floor retail. The Commission further finds that imposing such a restriction on the project could jeopardize the complex and carefully structured funding plan, which leverages the income derived from commercial and market-rate housing to help support the one-for-one replacement of public housing units and other project amenities. The Commission concludes that the proposed ceiling height will be sufficient to accommodate a variety of service-oriented retail uses that will support the new development. Accordingly, no further increase in the ceiling height for ground floor retail space is warranted. Nevertheless, the Applicants have committed, and the Commission encourages them, to explore increasing the ceiling height to the greatest extent possible to allow for maximum flexibility for potential retail uses.

**Other Government Agency Reports**

55. By report dated July 14, 2003, and through testimony at the public hearings, the District's Division of Transportation ("DDOT") stated its general support for the applications. DDOT concurred in the Applicants assessment of vehicle trips generated by the development and that the area road network would operate at an acceptable level of service. DDOT expressed its preference that, to the extent possible, all current private streets in the project area be made public. DDOT further stated that any new streets must be built to District specifications and the Applicants agreed to comply with this requirement.

56. DDOT further recommended that, to the extent financially possible, that the Applicants should use high-quality streetscape materials for the sidewalk, curb, gutter, tree boxes and other public realm elements. Specifically, the new 3rd Place that will be the development's "main street," should use brick sidewalks, granite curb and alley aprons, brick gutters, bluestone pavers and other attractive elements. With respect to existing streets, DDOT recommended that the Applicants treat them in accordance to their relative importance in the development. The retail areas along the Canal Blocks, for example, warrant brick sidewalks while on other areas of the project, brick header rows may be a lower cost alternative. DDOT concluded that these recommended improvements over the Applicants' submitted landscape plan would serve to knit the new neighborhood aesthetically into Capitol Hill.

57. With respect to the operation of specific streets within the development, DDOT stated that it has no plans at this time to reconstruct and reconnect I Street between 2nd and New Jersey Avenue, but that this connection is not necessary for traffic operations to continue at acceptable levels. DDOT expressed a preference that any private streets be dedicated as a public street, including the easternmost 2nd Street (also known at Canal Street). Due to underground utilities, the Applicants stated that the proposed new 6th Street at M Street will not align with the existing 6th Street to the south by approximately 85 feet. DDOT requires that such offsets have a minimum distance of 100 feet and accordingly, this street will be private. DDOT stated that a "pork chop" shaped median at M Street, however, will help prevent cars from making unsafe and illegal movements from 6th Street.. The Applicants agreed to institute this traffic measure.

58. DDOT concluded, and the Commission finds, that the amount of street and private parking provided for the PUD is adequate.

59. DDOT further recommended that the traffic study include additional analyses of measures needed to accommodate the increased pedestrian traffic generated by the PUD project. Through their post-hearing submission dated August 14, 2003, the Applicants' traffic consultant, O.R. George & Associates, provided the requested information. The traffic consultant concluded that the existing pedestrian sidewalk and crosswalk system can adequately accommodate the projected pedestrian volumes and flow patterns. Nevertheless, the Applicants will undertake certain improvements to protect pedestrian safety, including ensuring that the area's sidewalks are in good condition and provide clear widths in the range of six feet; provide clear curb environments at the internal intersections; provide eight-foot crosswalks at all intersections instead of the recommended six-foot width; and ensure that "all-way" stop control is provided at the internal intersections. The traffic consultant concluded, and the Commission finds, that these proposed improvements will ensure that the projected/future pedestrian volumes and flow patterns are accommodated with efficiency and safety. The improvements will

also have a positive impact on the safety of other uses of the roadway and pedestrian facilities.

## Contested Issues

Acquisition of Private Properties

60. The Applicants testified that as part of the overall development plan for the Capper/Carrollsburg redevelopment, twenty privately owned properties in Squares 799 and 800 are to be acquired either through a negotiated purchase and sale agreement or through eminent domain proceedings. Of the twenty properties, which represents approximately two percent of the total project area, nine are owner occupied and eleven are held by absentee owners. Of the nine owner occupied properties, three were acquired by their current owners since the year 2000 (two after the HOPE VI application was submitted), four were acquired in the 1990's and two were acquired prior to 1990. In Square 799, ten of the private properties are to be acquired in full and the rear portions of five private properties will also be acquired. The remaining five private properties in Square 799 will not be acquired at all. All five private properties in Square 800 will be acquired in full.

61. The twenty properties that are to be acquired are necessary to achieve the redevelopment plan. Square 799 will be bisected by the new 3rd Place, with houses lining both sides of the street and turning the corners to also front on K and L Streets. The full and partial acquisitions are required to accommodate the number of units programmed for the eastern half of the square and to provide rear access to the garages in those units.

62. ANC 6B testified in opposition to the acquisition of these twenty properties for the HOPE VI project. The ANC stated that the acquisition plans set a bad precedent for the overall stability of neighborhood, would force homeowners out of their community and place a financial burden on them. The ANC noted that the housing prices for the new replacement units may be beyond the reach of those displaced homeowners that would like to return. The ANC further urged that a "right of first refusal" to return is no guarantee that these homes will be within the financial means of these property owners without some form of guarantee from DCHA.

63. David Meadows, the owner and resident of the property located at 305 K Street, S.E., (Lot 41, Square 799), also testified in opposition to the acquisition of properties. As one of the owners whose property is to be acquired, Mr. Meadows strenuously objected to the taking of his 1903 rowhouse on several grounds. First, he stated that his house, which was built in 1903, possessed historic merit and thus should not be demolished. The Capitol Hill Restoration Society ("CHRS") also testified against the acquisition and demolition of properties that have historic merit, which it stated should be renovated

instead. Second, Mr. Meadows stated that DCHA and its representatives presented deliberately misleading and inaccurate statements regarding the number of properties to be acquired, including his own, placing him and other owners at a disadvantage. Mr. Meadow further argued that DCHA failed to demonstrate a critical need for these properties and did not explore reasonable alternatives to acquisition.

64. Paul Rowe of DCHA and Harry Sewell, on behalf of the Applicants, countered these contentions. They stated that the project entailed a considerable amount of planning to ensure that the number of properties to be acquired was kept to a minimum. Initially, all private properties in the project area, with the exception of St. Paul's Church, were to be acquired, as demonstrated by the original conceptual site plan from the HOPE VI application submitted as part of the Applicants' post-hearing submission. After the application was submitted and awarded, the Applicants restudied this portion of the project and were able to reduce the number of private acquisitions to the minimum necessary to proceed with the HOPE VI redevelopment plan. The Applicants stated that all affected property owners received a letter dated April 23, 2003, advising them that the subject property was to be acquired as part of the Arthur Capper HOPE VI project awarded to DCHA by HUD in October 2001. They were further advised that because Federal financial assistance is involved in the project, acquisition would be governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended. Enclosed with the letter was the HUD publication "When a Public Agency Acquires Your Property," which describes important features of URA and general information about public acquisition of real property. Following the letter of April 23, 2003, property owners received a letter dated July 21, 2003, advising them that, should they wish to be present during the appraisal, the appraiser would be available for appointments during the week of July 28, 2003.

65. Consistent with URA requirements, the Applicants stated they will use the results of the appraisal as the basis for determining "just compensation" to the owners. Just compensation is defined as an amount not less than the appraised fair market value of the property. The Applicants further stated that prior to commencement of negotiations with each property owner, they will prepare a purchase offer and summary statement explaining the basis for the offer. The summary statement will include a description and interest in the property to be acquired, the amount offered as just compensation and a list of buildings and other improvements covered by the offer. The Applicants further explained that each owner is entitled to present evidence as to the amount the owner believes is the fair market value of the property, as set forth in the HUD publication sent to each affected owner. The owner may have legal or other representation during the negotiations, and it is through the negotiation process that a fair and equitable amount is determined as a basis for sale. The Applicants further explained that only after this process has been exhausted will DCHA seek to acquire any affected property through eminent domain. Additionally, families, individuals, businesses and nonprofit

organizations displaced as a result of this process may be entitled to relocation assistance if they are found eligible under Title II of URA.

66. With respect to the four other HOPE VI projects in the District of Columbia, the Applicants stated that sixteen properties which were in private ownership were acquired by the DCHA for the redevelopment. Of those sixteen properties, eleven were acquired by purchase from the owners and five were acquired through the use of eminent domain.

67. While recognizing the difficulties caused by the acquisition process on property owners, and at the same time the overall benefits provided to the HOPE VI project by the inclusion of these properties in the redevelopment proposal, the Commission finds that its authority is limited by the Zoning Regulations to an evaluation of the project in accordance with the PUD guidelines and standards, and compliance with the Comprehensive Plan. It does not include the ability to limit or restrict the acquisition of properties proposed for the HOPE VI project. That jurisdiction rests with DCHA and/or HUD and is appropriately addressed through those agencies. Nevertheless, the Commission finds that HOPE VI projects typically and inevitably require the acquisition of some properties and that the Applicants have attempted to keep this number to a minimum. Here, the acquisition properties represent only 2% of the total project. The Commission further believes that the acquisition process outlined in the URA provides adequate safeguards for owners to negotiate and fair and equitable sales price for their property.

68. Based on the evidence of record and testimony at the hearing, the Commission also finds that there is no evidence to suggest that HOPE VI project will entail the unauthorized demolition of historic properties. As set forth in Exhibit 54 to the record, the District of Columbia State Historic Preservation Office, the District agency charged with the protection of historic resources, determined that the Arthur Capper/Carrollsburg HOPE VI project would not have any adverse effects on historic properties. The Zoning Commission defers to the expertise of this sister agency.

Ability of Displaced Residents to Return to the New Community and CSSP

69. Numerous residents testified in opposition to the proposed PUD based on the lack of assurances that displaced residents would be permitted to return to the new HOPE VI development. Debra Frazier, representative of the Friends and Residents of Arthur Capper/Carrollsburg, stated that the one-for-one replacement of public housing units involved income tiers that severely limited the ability of residents earning up to $20,000 a year from returning to the new community. Based on information received at a meeting two years ago, Ms. Frazier stated that only 35 percent of units would be available for those income ranges. The remaining 65 percent of units would only be available to residents earning at least 90 percent of the Metropolitan Statistical Area income, or

approximately $64,000. Because this far exceeds the income level of Capper/Carrollsburg residents, Ms. Frazier concluded that the vast majority of current tenants would not be able to return to the community. Agnes Taylor and Olena Oliphant supported Ms. Frazier's comments and likewise objected to the lack of guarantees to return existing residents to the community and the types of assistance available for relocation. Brother Chris, a community activist, also objected to the displacement of low-income families without guarantees that those earning between $5000 and $20,000 would be allowed to return to the new community.

70. At the hearing and through evidence submitted to the record, the Applicants described the relocation process and the public resources available to residents to assist in their return. To be eligible to return to the HOPE VI site, an original resident must meet certain criteria under the Family Self-Sufficiency requirements of HUD. The primary requirement is for residents to participate in the CSSP, which helps with employment training, finding work, building assets, and eventually relocating out of public housing. Other criteria established by the DCHA include good standing as an existing public housing resident, including credit-worthiness, or an agreement to pay any rent arrears.

71. According to DCHA, residents have two primary resources to accomplish relocation: (i) housing choice vouchers ("HCV"), which require residents to contribute a certain percentage of their income toward rent and the rest is subsidized through the voucher, or (ii) other public housing units. Of the 171 households being relocated during Phase I of the Capper/Carrollsburg project, 116 have elected HCVs and 55 have elected to relocate to other public housing units. None of the residents displaced by the Capper/Carrollsburg project will experience a reduction in their rent subsidy. In order to return the community, the resident must either be gainfully employed or in a training program, unless otherwise exempted by age or disability. These training programs are available through the CSSP for Capper/Carrollsburg, which has been approved by HUD. DCHA testified that the CSSP is currently in the case management stage for the families to be relocated during Phase I. The case management stage assesses the needs of each individual, obstacles that might prevent them from returning to the community, and determining the best means for overcoming those obstacles. providing the training or programs to address those issues.

72. Several witnesses expressed concern over the adequacy of the CSSP in providing job services and helping residents re-enter the HOPE VI community. The ANC testified that residents are being asked to sign an agreement to abide by the terms of the CSSP without those terms being fully developed. The ANC argued that the CSSP must in place prior to the relocation of residents out of the community. The CDC expressed the desire to create a community covenant whereby the developers agree to commit to jobs for the current residents instead of just relying on the LSDBE and First Source Agreements. The Committee of 100 urged the Commission to scrutinize the $29 million in social service

benefits in the CSSP on the belief that most of that money does not constitute new contributions but is money already paid for services to which the residents are currently entitled. As such, the Committee of 100 concluded, it should not count as a benefit of the PUD.

73. In response to questioning by the Commission, the CDC described the types and numbers of jobs to be created as a result of this development. The CDC stated that approximately 350 jobs are anticipated during the predevelopment and the first phase of construction. An additional 1100 jobs for residents, primarily in the construction field, would be created in collaborations with other developers and employers in the area. CDC further stated that it has already entered into an agreement with a case management firm to work with individuals and families during the relocation process to assess and identify any necessary job training or social support and link those residents with the service providers that have committed to be part of the HOPE VI process.

74. The Zoning Commission finds that the Capper/Carrollsburg HOPE VI project is unique in its scope because it calls for the one-for-one replacement of all existing public housing units within the PUD boundaries, thereby creating the potential for all current residents to return to the new community. The Zoning Commission also notes that the CSSP will help maximize that opportunity by providing training and programs to overcome any obstacles that these residents and families may face. The Commission finds that the services and monies already allotted to the CSSP represent a significant project amenity and a benefit to the community as a whole. The Commission concludes, however, that it has no jurisdiction over the operational parameters of the HOPE VI program and its relocation policies as established by HUD and DCHA, and finds that such issues can only be addressed by those agencies.

75. As set forth in Finding No. 54 above, the Commission further finds that the CSSP is adequately funded and the service providers sufficiently identified in order to provide the type of support necessary to help residents attain gainful employment; to offer counseling, guidance and other services to help sustain that employment; and to provide the necessary tools to help residents achieve self-sufficiency. In response to issues raised by the ANC 6B, the Commission finds that the assessment phase is underway and that the CSSP is already functioning prior to the relocation of any residents.

Demolition of Recently Renovated Housing Units

76. Several witnesses in opposition to the proposed Capper/Carrollsburg HOPE VI project also questioned the wisdom of demolishing public housing that had recently been renovated. ANC 6B testified that less than two years ago, several buildings were renovated and rehabilitated pursuant to a court order, and the court certified that the work

was completed and acceptable. David Meadows also questioned why functioning and inhabited units would be slated for demolition.

77. The Applicants responded to this issue by stating that the renovations were designed to keep the affordable units in service and habitable, and the work did not address long-term structural problems. In DCHA's judgment, ultimately concurred with by HUD through the award of the HOPE VI grant, demolition and replacement of functionally obsolete buildings was the most practical and economically feasible solution for the long term. The Carroll Senior Building, being the least distressed of the existing buildings, is being retained. DCHA submitted to the record excerpts from the HOPE VI grant, as well as engineer's certificates, documenting the dilapidated conditions of the buildings that qualified the property for demolition and redevelopment under the HOPE VI standards. Based on this evidence of record, the Zoning Commission finds that the renovations of certain units were a temporary measure and that in order to achieve the long-term goals of affordable housing for the city, DCHA exercised its authority in determining that demolition of all by the Carroll Senior Building is necessary under the HOPE VI program.

Density and Lack of Open Space

78. ANC 6D, ANC 6B and the Committee of 100 argued that the proposed project was too dense and did not provide enough open space. ANC 6D contended that there is already an overwhelming amount of commercial density proposed in near southeast and southwest. ANC 6D further noted that the number of residents would more than double, resulting in taller buildings and rowhouses without front or back yards. ANC 6D estimated that the development would result in lot coverage of essentially 100 percent with minimal parking. ANC 6D anticipated that the projected development would not be able to accommodate grocery and other retail services necessary to maintain the vitality of the neighborhood.

79. ANC 6B similarly objected to the lack of open space, noting that the Canal Park and Marine Barracks fields were at the edges of the development and couldn't compensate for the dearth of space at the heart of the residential community. ANC 6B suggested that all residential decks should be a minimum of six feet deep to help alleviate this problem. The Committee of 100 also objected to the lack of greenery, play spaces and recreational places for family social life, and suggested a ten percent reduction in the number of units. It further noted that the recreational opportunities at the Marine Barracks fields were not being realized, despite the Memorandum of Agreement, because events were being cancelled at the last minute.

80. In response to these assertions, Mr. Sher provided documentation evidencing that the proposed density of the Capper/Carrollsburg project is consistent with the density of

surrounding neighborhoods. At 2.21 FAR, the overall residential density is less than 25% more than the permitted density under the existing R-5-B District, but still less than the 3.0 FAR allowed under the PUD guidelines. Further, this requested density accommodates an increase in housing supply while replacing the same number of public housing units. Based on Mr. Sher's calculations, the 1,645 units over the net acreage of the site equates to approximately 75 units per net acre. This is consistent with the existing density of developments in the former Southwest Urban Renewal Area, which mixes townhouse and high rise buildings together, including Tiber Island at 99 units per acre, Harbour Square at 71 units per acre, and Waterside Towers at 100 units per acre. Mr. Sher also testified that the density of the consolidated PUD, at approximately 51 acres, is similar to developments on Capitol Hill located in both the R-4 and R-5-B Districts. His examples included Potomac Gardens at 56 units per acre, and the Lincoln Park area, which averaged approximately 47 units per acre in the 26 squares studied.

81. The Commission is persuaded by the testimony of Mr. Sher and finds that the comparison of densities of surrounding areas demonstrates that the density proposed under the preliminary and consolidated PUD applications is reasonable and will provide enough open space to support recreational and other family social activities. The Commission finds no evidence of record to suggest that that the Capper/Carrollsburg cannot thrive at a density level similar to those that have sustained other stable neighborhoods in the Capitol Hill and Southwest Urban Renewal areas. As noted in Finding No. 54 above, the Commission also credits the testimony of Mr. Youngentob in finding the depth of the decks to be sufficient in providing outdoor living space for residents of the townhouses.

Height Along M Street at Eastern End of Project

82. ANC 6B and the Committee of 100 contested the proposed height of buildings along the eastern end of M Street as too tall. At a proposed height of 110 feet, the office buildings in the 600 block of M Street would purportedly loom over the neighboring Van Ness School to the west and overshadow the proposed new rowhouses to the north. ANC 6B stated the height would be inconsistent with the 8th Street Overlay, which limits height to 45 feet along 8th Street. The ANC further suggested that such buildings would be more appropriately located within the boundaries of the PUD along New Jersey Avenue, which permits a height 130 feet.

83. The Commission finds otherwise. Based on the testimony of the Office of Planning and the report submitted by Steven E. Sher, the Applicants' expert witness in land planning and zoning, the Commission finds that the proposed height of 110 feet is appropriate in this location. The Commission concurs in Mr. Sher's assessment that M Street will become the "main street" of the Near Southeast portion of the Anacostia Waterfront area and has the potential to become a grand urban boulevard lined by taller buildings containing more intense uses than is currently the case. Because the Zoning Regulations

already permit heights up to 130 feet in the area between South Capitol Street and New Jersey Avenue, and the proposed zoning for the Southeast Federal Center would allow up to 130 feet in height for the area east to 4th Street, allowing 110 feet in height for the three office buildings would help to set the frame for the context of M Street. The Commission notes that M Street already has office buildings at ninety feet east of 11th Street. Moreover, the Commission finds that the office buildings in the 600 block of M Street would be across from the activity center which is building at the Navy Yard and concludes that there will be a natural demand from office tenants who have business directly with Navy personnel, particularly with the Naval Sea Systems Command. Additionally, the Commission finds that by shifting the office space from Square 739 along New Jersey Avenue, that square now becomes available for residential use. In so doing, residential use extends into the area currently anticipated to be predominantly office in use, thereby expanding mixed use opportunities and becoming a natural enhancement to the residential and hotel development proposed for the block immediately to the south.

84. The Commission further notes that it is a typical development pattern in the District for high rise buildings to be located along major arteries and corridors, adjoined by low density, low-rise residential structures within close proximity. As discussed by OP during the hearings and as elaborated by Mr. Sher in his report, the Connecticut Avenue corridor alone has many stretches of ninety foot buildings separated only by ten or fifteen foot alleys from two story detached single family residences. Portions of the Southwest Urban Renewal area also have a deliberate and successful mix of high-rise and low rise buildings in the same project. Thus, the Commission concludes that the juxtaposition of heights between the office buildings, the Van Ness School and the rowhouses to the north are not incongruous and instead reflect successful development patterns throughout the city. The Commission also notes that these buildings are in the preliminary PUD, and must be reviewed again by the Zoning Commission as part of a second stage application, where the Commission will have the opportunity to study in greater detail the design relationships involved.

## CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of section 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height, bulk and density standards of the Zoning Regulations, and the height and density will not cause a significant adverse effect on any nearby properties. Residential use is appropriate for the site, which is located within a Housing Opportunity Area. The commercial office and retail uses are also appropriate at the perimeter of the site, in close proximity to mass transit. This site of the recreation center is likewise appropriate, which is located in the parks, recreation and open space category on the Generalized Land Use Map. The impact of the project on the surrounding area is not unacceptable. As set forth in the findings of fact, the proposed development has been appropriately designed to respect the historic building with respect to height and mass and to complement adjacent buildings.

6. The Commission may process the preliminary PUD application involving privately owned property whose owners have not signed the application because a government agency intends to acquire that property by eminent domain or negotiated sale and because an owner's rights will not be affected by preliminary approval. The second stage PUD may not be processed without the required signatures of all affected private property owners.

7. The PUD applications meet the contiguity requirements of section 2401.3 with respect to Square 882.

8. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

9. The project benefits and amenities, particularly the provision of housing and neighborhood-serving retail, are reasonable for the development proposed on the site. The PUD responds to the surrounding residential and commercial developments.

10. The Applications seek an increase in height and the aggregation of FAR and lot occupancy, as permitted by 11 DCMR §§ 2405.2, 2405.3 and 2405.4. The project benefits and amenities, particularly the provision of housing in a Housing Opportunity Area, the creation of a new urban, mixed-use mixed-income community, the one-for-one replacement of public housing units, the community center, the recreation and open space including the Canal Blocks, the employment training and social services counseling, are all reasonable trade-offs for the requested development flexibility.

11. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.

12. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan.

13. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

14. The applications for a PUD and map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

15. The applications for a PUD and map amendment are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

## DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Applications for (1) preliminary review of a Planned Unit development; (2) consolidated review of a Planned Unit Development; and (3) a Zoning Map amendment from R-5-B to CR for the Arthur Capper/Carrollsburg HOPE VI redevelopment project. The Zoning Commission for the District of Columbia further waives the hearing fees for these applications. This approval is subject to the following guidelines, conditions and standards:

1. The preliminary approval of the PUD shall apply to the following properties: Square 737, those portions of lot 814 and Reservation 17A which 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 880, lot 24; Square 881W, 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 825S.

2. The consolidated approval of the PUD shall apply to the following properties: Square 824, lots 37, 38 and 39; Square 825S, lots 31, 32, and 33; Square 880, lot 24; and all of Squares 797, 798 and 825.

3. The following properties shall be rezoned 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).

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, (the "Preliminary Plans") as modified by the guidelines, conditions and standards herein.

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 density shall be as shown on the Site Plan Development Data, Sheet S-3.1 of the Preliminary Plans.

6. A minimum of 695 of the residential units shall be devoted to public housing, including 300 units in the two senior buildings. A minimum of 50 units shall be home ownership Section 8 units under the HUD program.

7. The overall maximum permitted residential FAR shall be 2.21 across the project as a whole, for a maximum permitted gross floor area of 2,092,081 square feet, including the community center. The overall maximum permitted office and retail FAR shall be 0.80 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.

8. The maximum permitted height shall be as follows:

   a. For the office buildings in Squares 769 and 882: 110 feet

   b. For the apartment buildings in Squares 768 and 769: 110 feet

   c. For the apartment building in Square 739: 130 feet

d. For the apartment building in Square 767 and the existing senior apartment building in Square 825: 65 feet

e. For the senior apartment building in Square 880: 50 feet

f. For the remaining residential buildings: 45 feet

g. For the community center building: 25 feet

Roof structures may exceed the maximum permitted 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.

9. The overall lot occupancy for the residential buildings in the project shall not exceed 54%.

10. The design of buildings in the project shall comply with the Urban Design Guidelines set forth in the Preliminary Plans.

11. The project shall include a minimum of 1,980 off-street parking spaces. The distribution of those spaces shall be as shown on the Parking Plan, Sheet T-3.0 of the Preliminary Plans.

12. Landscaping treatment shall be as shown on Sheet L-1.0 of the Preliminary Plans.

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 which 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").

14. The Applicants shall provide a minimum floor height of 11 feet, 8 inches in those areas designated for first floor retail use and shall endeavor to increase that height to 14 feet. In any second stage applications involving retail use, the Applicants shall demonstrate what steps were considered or taken to increase the height of the first floor from 11 feet, 8 inches to 14 feet.

15. The Applicants shall 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.

16. Prior to the issuance of the building permit for the office building at 250 M Street 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.

17. Prior to the issuance of the building permit for the 600 M Street office buildings, the Capper/Carrollsburg Venture, LLC shall contribute $137,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.

18. Prior to the issuance of the first certificate of occupancy for any of the residential buildings facing the Canal Blocks Park, the Applicants shall have cleared 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 have brought the site to rough level finished grade and have planted the site with grass.

19. The Applicants shall file an application for a building permit for the community center building in Square W881 (also known as Reservation 19) by July 1, 2005, subject to review by the National Park Service of the proposed uses. Plans shall be submitted to the Zoning Commission as part of a second stage application with sufficient lead time to allow this deadline to be met. Construction shall start on the community center no later than 180 days after the issuance of the building permit.

20. 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.

21. 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 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/Carrollsburg on the Hill Community Development Corporation and to ANCs 6B and 6D, which will be responsible for disseminating this information to the surrounding communities.

22. 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 fifty-one percent of the jobs created by the PUD project. In addition, 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/Carrollsburg on the Hill Community Development Corporation and to ANCs 6B and 6D, which will be responsible for disseminating this information to the surrounding communities.

23. 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 or 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 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 building;

   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;

   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 D.C. Building Code or that are otherwise necessary to obtain a final building permit.

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, that is 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 this property in accordance with this order or amendment thereof by the Zoning Commission.

e. Notwithstanding Condition d, 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 d, above for Square 880, the lot may be resubdivided 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.

h. Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), the Applicants are required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicants fail to comply with any provision of the Human Rights Act.

24. An individual Applicant shall be responsible for carrying out those conditions of this order which are applicable to each specific property and shall not be responsible for the obligations or requirements of the other Applicants.

25. Any application for second stage approval of the PUD shall include the signature of all owners of the property involved.

26. 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 eighteen 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 eighteen months of the effective date of this order and that application shall include a phasing plan for the remaining applications.

27. No application for second stage approval shall be filed until the Applicants have recorded the covenants required by the Regulations and Condition 23d of this order for the consolidated PUD.

On _____, the Zoning Commission approved the applications by a vote of _____ (Carol J. Mitten, Anthony J. Hood, Peter G. May, James Hannaham and John Parsons_____).

The order was adopted by the Zoning Commission at its public meeting on _____, by a vote of ____ (Carol J. Mitten, Anthony J. Hood, James Hannaham, John Parsons and Peter G. May_____).

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the *D.C. Register*; that is on _____.

**CAROL J. MITTEN**
**Chairman,**
**Zoning Commission**

**JERRILY R. KRESS, FAIA**
**Director**
**Office of Zoning**

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