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By: Fax and Hand Delivery
Carol J Mitten, Chair
District of Columbia Zoning Commission
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ZONING COMMISSION
District of Columbia
CASE NO. 04-07
EXHIBIT NO. 35

Re Zoning Commission Case #04-07-DC WASA Special Exception

Dear Zoning Commissioners

On behalf of our client, the District of Columbia Water and Sewer Authority ("WASA"), we hereby submit this response to the Supplemental Report of the Office of Planning to the Zoning Commission dated June 14, 2004 We will respond to their comments in the order in which they were presented

Findings of Fact Section 24

The Office of Planning ("OP") requests that the findings of fact be placed within the "Decision" part of the Order as opposed to the "Findings of Facts " We submit that the proposed actions are not zoning actions and are not enforceable by the Zoning Administrator Therefore, they should not be included as part of the Decision and were placed within the Findings of Fact section so that they are made part of the record of this matter In addition, some of the street improvements will not have occurred by the time WASA applies for a certificate of occupancy for the Pumping Stations Therefore, making them conditions of approval is impractical Further, as to the second bullet in this section, the proposed order states that Forest City would contribute "an equitable share" of its property for the public access not an "equal" share, which WASA understands may not be possible or desirable

Findings of Fact Section 25

OP is requesting that no repaving or re-striping of parking areas occur within the waterfront setback area and that the construction bridge proposed over the barge slip not be approved WASA strongly objects to this modification as the purpose of the repaving and striping is to improve the look of the WASA Property Further, incorporated in this work are low impact development (LID) storm water management controls and structures to be installed which will improve the condition of the storm water discharge into the Anacostia River In addition, because the location and funding for the Riverwalk has not yet been determined, it is possible that the parking and the bridge will not impact Riverwalk at all Eliminating parking now seems premature With regard to the proposed bridge, the bridge is necessary for circulation in

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and around the WASA Property, including emergency vehicles This becomes particularly important with the potential for opening up the Second Street right-of-way for public access Therefore, WASA would submit that this bridge should be approved Lastly, WASA has committed that it will not impede development of the Riverwalk and this includes the removal of any paved areas which may be approved by this special exception Specifically in paragraph 31, WASA made this commitment and also a commitment to relinquish parking spaces along the waterfront with the understanding that replacement parking spaces for any displaced fleet parking would be found

Findings of Fact Section 32

OP is unclear as to which street segments are referred to in the proposed Order WASA clarifies that these street segments are Tingey Street, S E , New Jersey Avenue, S E and Second Street, S E

Decision Sections 1 and 2

OP requests that the minor changes to the Load-Out Facility which may be forthcoming due to discussions with WASA's neighbors should be reviewed by the Zoning Commission WASA submits that it is not necessary for the Zoning Commission to again review these changes as they would not involve any change to the exterior materials, nor any increase in the height, footprint, or gross floor area of the Pumping Station Further, these changes would have to be approved by the Commission of Fine Arts Therefore, it does not seem like an expeditious use of the Zoning Commission's time for a second submission for what may be very minor and modest changes to the Load-Out Facility, which if they occur at all, will be to reduce the profile of the Facility

Decision Section 3

OP submits that WASA is asking to be excused from review of security fencing However, WASA is only suggesting that temporary fencing be permitted and permanent fencing would be submitted for review by the Zoning Commission as part of the bigger plans for redevelopment of the Property, once street alignments, etc have been determined With the unknown nature of the surrounding street network WASA needs to be able to adjust its fencing as necessary to keep its property and the public safe

Decision Sections 4A

OP submits that the 8-year time period for submission of a plan to the Zoning Commission for redevelopment of the WASA site is too long WASA again requests that this time period be approved in that it provides sufficient time for adequate planning and coordination with all interested parties However, WASA believes that it is inappropriate for the Zoning Commission to require as part of its approval that coordination with private landowners be

accomplished Clearly, WASA cannot be required to delay its planning in waiting for other private owners to move forward or agree on future development Therefore, WASA would request that the conditions remain as proposed and/or that it be modified only to allow for coordination of development pursuant to the AWI and Southeast Plans

Decision Section 4C

WASA has made it clear that it will not impede future plans for Riverwalk As part of numerous prior discussions, it was understood that WASA might need parking spaces which could be displaced by the future Riverwalk Therefore, the District Government, through various agencies, committed to helping locate replacements for this displaced parking

Temporary Construction Building

WASA needs the temporary building for relocation of the employees from the Main Pumping Station and the O Street Pumping Station while construction is ongoing Therefore, it cannot remove this building prior to issuance of the Certificate of Occupancy for the Main Pumping Station Accordingly, WASA would submit that a reasonable timeframe for removal of the temporary building would be 120 days after the Certificate of Occupancy is issued for the Main Pumping Station

Thank you for your consideration of these comments

Sincerely,

Emily J Vaias

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cc Joel Lawson, OP
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