Holland & Knight

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April 8, 2005

WHAYNE S. QUIN
202-663-7274
whayne quin@hklaw com

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2005 APR -8 PM 4:31

VIA HAND DELIVERY and E-MAIL

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

District of Columbia
CASE NO. 04-11
EXHIBIT NO. 58

Re: Rocky Gorge at Fort Totten, LLC
Zoning Commission Case No. 04-11
Submission Responsive to Comments Raised at March 14 Public Meeting

Dear Members of the Commission:

This letter is submitted on behalf of Rocky Gorge at Fort Totten, LLC, in response to certain issues raised at the Zoning Commission's March 14, 2005 public meeting.

The Applicant is gratified and excited that the Commission has taken proposed action to approve the Consolidated Planned Unit Development and Map Amendment Application. The National Capital Planning Commission has also considered the Application and determined that there is no negative impact upon the Federal interest. Thus, final action approving the Application by the Zoning Commission at its April 11 public meeting is appropriate in this case.

The Applicant has worked extensively with the DC Department of Transportation (DDOT) and the DC Office of Property Management (OPM) regarding the Application, including the provision of grading and access easements across the District-owned property north of the PUD Site. As noted in its April 7, 2005 memorandum, a copy of which is attached as Exhibit A, DDOT acknowledges that it is supportive of the proposed access and grading easements across the District-owned property and is working with the Applicant and OPM to finalize an easement agreement which is legally sufficient for recordation. For your reference, a copy of the current draft of the Easement and Right of Way Agreement is attached as Exhibit B, along with an aerial photograph superimposed with an outline of the grading and access easement areas. As DDOT notes, the easement finalization

ZONING COMMISSION
District of Columbia
CASE NO.04-11
EXHIBIT NO.58

process should be completed within the next several weeks and recordation of the Easement and Right of Way Agreement is expected as soon as logistically possible thereafter.

With the grant of the access easement across a small portion of the District-owned property, the Applicant will be able to provide an additional means of vehicular egress from the PUD Site. The project will not lose the townhouses proposed at theoretical lots 21 and 34; and, thus, the alternative plans submitted in the Applicant's December 20, 2004 post-hearing submission will not be necessary. Likewise, with the grant of the grading easement along the border with the District-owned property to its north, the Applicant will be able to significantly lower the grade differential and, thus, obviate the need for the retaining wall solution proposed along that boundary of the PUD Site.

At the direction given by the Zoning Commission at its March 14th public meeting, the Applicant has revisited the terms of its proposed Construction Management Plan. The Applicant notes that the proposed Construction Management Plan is based upon a similar plan that has been approved by the Commission as part of another PUD application. That said, the Applicant has made certain additions and revisions to its proposed Construction Management Plan, including the following:

1. greater specificity of developer's obligation to maintain clean site;

2. greater specificity as to handling violative construction traffic; and

3. agreement to maintain fencing to screen and secure the site.

A copy of the Applicant's revised Construction Management Plan is included at Exhibit C. The Applicant agrees with the inclusion of the Construction Management Plan as a condition to final approval by the Zoning Commission of the Application.

In response to other comments made by the Commission at its March 14th meeting, the Applicant and the Office of the Attorney General have reached agreement in the proposed Order as to a consistent time certain for delivery of the various amenity packages, to be paid within 90 days after recordation of the PUD Covenant. Finally, with respect to Commissioner comments regarding the memorandum submitted by the DC Fire and Emergency Medical Services Department, dated November 4, 2004, in which that Department offered no objection to the application, "provided that the proposed development has acceptable Fire Department access, and the new construction complies with the 2000 Edition of the International Fire and Building Codes and DC Law 2-90," the Applicant agrees that it will comply with these requirements as part of its building permit application process.

For all these reasons, final approval of the Application at the April 11 public meeting is appropriate.

Respectfully submitted,

HOLLAND & KNIGHT LLP

Whayne S. Quin

Dennis R. Hughes

Enclosures

cc: Joseph Bowser, Advisory Neighborhood Commission 5A, SMD 5A-04
Levin Lee, ANC SMD 5A-03
Jennifer Steingasser, DC Office of Planning
Kessela Brown, representative of Concerned Citizens for North Michigan Park

EXHIBIT A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF TRANSPORTATION

Transportation Policy and Planning Administration

To: Jerrily R. Kress
Director
Office of Zoning

From: Kenneth G. Laden
Associate Director

Date: April 7, 2005

Subject: PUD No. 04-11- 611 Emerson Street, N.W. Lot 811, Square 3788

The District Department of Transportation (DDOT) has received a proposed easement and right-of-way agreement for the use of public space Lot 805 in Square 3781, located at Emerson Street, N.E. Washington, D.C.

DDOT intends to provide support for the easement, contingent upon legal sufficiency of the plat and the written agreement. This process should be completed within four (4) to (6) weeks

This letter is by no means intended to delay the final decision of the Zoning Commission in matters related to the above-mentioned property.

EXHIBIT B

EASEMENT AND RIGHT-OF-WAY AGREEMENT

THIS EASEMENT AND RIGHT-OF-WAY AGREEMENT is made this ____ day of_____, 2005 by and between the DISTRICT OF COLUMBIA ("Grantor") and ROCKY GORGE AT FORT TOTTEN, LLC, a Maryland limited liability company authorized to do business in the District of Columbia, its successors and assigns ("Grantee").

Recitals

A. Grantor is the owner of a parcel of land in the District of Columbia known for the purposes of assessments and taxation as Lot 805 in Square 3781, located at Emerson Street, NE, Washington, D C (the "Servient Tenement")

B Grantee is the owner of certain parcels of land, which are contiguous to the Servient Tenement, in the District of Columbia known for the purposes of assessments and taxation as Lot 811 in Square 3788, located at 611 Emerson Street, NE, Washington, D C and Lots 87 through and including 102 in Square 3788, located on 7th Street, NE, Washington, D.C. (collectively the "Dominant Tenement")

C Grantor has agreed to grant Grantee an easement and right-of-way over a portion of the Servient Tenement as described herein, in order to facilitate the development and use of the Dominant Tenement and the construction of improvements thereon, which easement and right-of-way shall be used for grading, the installation and maintenance of utilities, and permanent ingress and egress to the Servient Tenement

NOW, THEREFORE, in consideration of the mutual covenants and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows

1 **Recitals.** The Recitals are incorporated herein by reference.

2 **Easement and Right-of-Way.** Grantor, for itself and its successors and assigns, hereby grants and conveys, to Grantee, as the owner of the Dominant Tenement, its successors and assigns, and each owner of any portion of the Dominant Tenement, an easement and right-of-way over the portion of the Servient Tenement shown on Exhibit A and described on Exhibit B and Exhibit C attached hereto and made a part hereof (the "Easement Area")

3 **Terms of Easement and Right-of-Way.**

(a) The Easement Area shall be used by the Grantee for the purpose of grading, installing and maintaining utilities and ingress and egress to the Dominant Tenement and all parts, portions and subdivisions thereof as necessary in connection with the development and use of the Dominant Tenement The Easement Area shall be used by the Grantee for the clearing of vegetation and debris, and the installation, construction, reconstruction, maintenance, repair, operation, inspection and access through the Easement Area, as a private street or streets. The Easement Area shall also be used by the Grantee for grading, regrading, and the construction, reconstruction, maintenance, repair, operation and inspection of utilities. The Grantee, its successors and assigns, and each owner of any portion of the Dominant Tenement, shall also have the perpetual right of ingress and egress along, over and through the Easement Area, for all of the foregoing purposes.

(b) Grantee shall properly restore and stabilize any disturbance in the Easement Area caused by its use of the Servient Tenement

(c) In consideration for the grant of the easements, Grantee agrees to meet the pavement design standards of the District of Columbia Department of Transportation for the entrance to its PUD, Emerson Park, from its intersection with Emerson Street, N.E through to the first intersection, as shown on Exhibit D. All other design standards for the entrance road shall be at Grantee's option, subject to the appropriate approval process for private streets

4 **General Provisions.**

(a) Grantee hereby agrees to indemnify and hold Grantor harmless from and against any liability, loss or damage arising out of the exercise of its rights hereunder

(b) Grantor hereby covenants and agrees that it shall execute any further document or instrument that may be required in the future by any owner of the Dominant Tenement for the modification of and revisions to the aforesaid easement and right-of-way in order that its intended use can be fully utilized for the purpose of grading, constructing and maintaining utilities and the granting of ingress and egress through the Servient Tenement

(c) The easements and rights-of-way as herein described or mentioned and hereby intended to be granted and conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining, shall run with the land and shall be for the proper use, benefit and behoof forever of the Grantee and its successors and assigns, and shall be binding upon the Grantor and its successors and assigns

(d) Each of the parties to this Agreement covenant and agree to execute such other and further assurances of the same as may from time to time be required by the other party or the District of Columbia in order to more fully accomplish and accommodate the purposes of this herein contained Agreement

(e) The Grantee shall perform all of the work required hereunder in a workmanlike manner and shall comply with all applicable laws and regulations of the District of Columbia After completion of such work, the Grantee's engineering company shall inspect such work and certify to the Grantor and the Grantee that the work has been completed in accordance with the applicable plans and specifications.

IN WITNESS, WHEREOF, Grantor and Grantee have executed this Easement and Right-of-Way Agreement as of the day and year first above written

GRANTOR:

DISTRICT OF COLUMBIA

By:_____

_____

GRANTEES:

ROCKY GORGE AT FORT TOTTEN, LLC

By: _____
Christopher S Dorment, Authorized Person

_____

to wit:

_____

On this ____ day of _____, 2005, before me, the undersigned officer, personally appeared _____ who acknowledged himself to be the _____ of the District of Columbia, and he, as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the District of Columbia.

In Witness Whereof, I have hereunto set my hand and official seal

_____
Notary Public

My Commission Expires. _____

STATE OF _____

to wit:

COUNTY OF _____

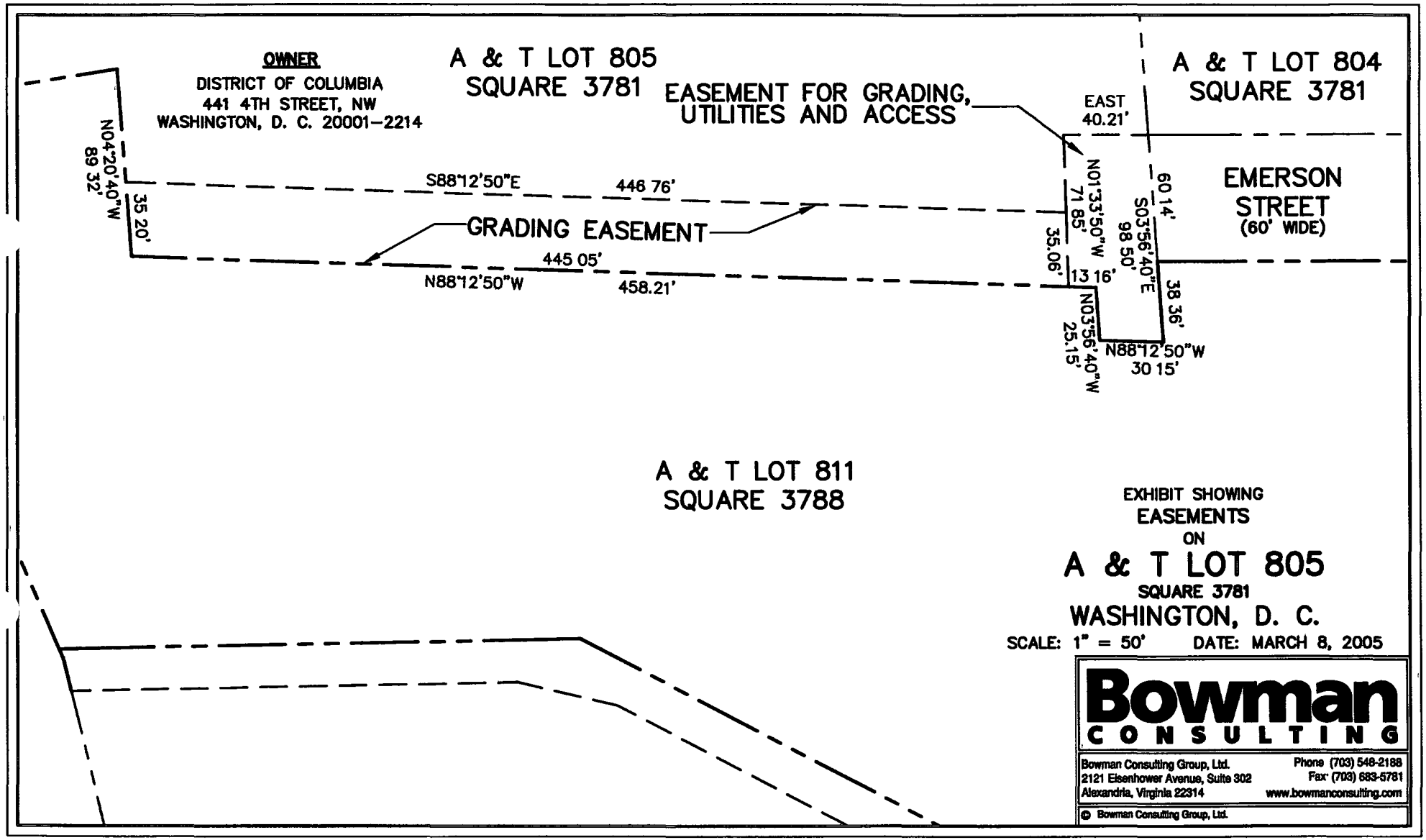
On this _____ day of _____, 2005, before me, the undersigned officer, personally appeared Christopher S Dorment as the Authorized Person of Rocky Gorge at Fort Totten, LLC, a Maryland limited liability company authorized to do business in the District of Columbia, known to me or satisfactorily proven to be the person who executed the within instrument and acknowledged that he executed the same for the purposes therein contained

_____
Notary Public

My Commission Expires: _____

C \NrPortbl\FDADB\JRH\47914_1 DOC

EXHIBIT A


OWNER
DISTRICT OF COLUMBIA
441 4TH STREET, NW
WASHINGTON, D. C. 20001–2214
A & T LOT 805
SQUARE 3781
EASEMENT FOR GRADING,
UTILITIES AND ACCESS
A & T LOT 804
SQUARE 3781
EAST
40.21'
N04°20'40"W
89 32'
35 20'
S88°12'50"E
446 76'
GRADING EASEMENT
445 05'
N88°12'50"W
458.21'
N01°33'50"W
71 85'
35.06'
13 16'
60 14'
S03°56'40"E
98 50'
EMERSON
STREET
(60' WIDE)
38 36'
N03°56'40"W
25.15'
N88°12'50"W
30 15'
A & T LOT 811
SQUARE 3788
EXHIBIT SHOWING
EASEMENTS
ON
A & T LOT 805
SQUARE 3781
WASHINGTON, D. C.
SCALE: 1" = 50'
DATE: MARCH 8, 2005
Bowman
CONSULTING
Bowman Consulting Group, Ltd.
2121 Eisenhower Avenue, Suite 302
Alexandria, Virginia 22314
Phone (703) 548-2188
Fax (703) 683-5781
www.bowmanconsulting.com
© Bowman Consulting Group, Ltd.

Bowman
CONSULTING

EXHIBIT B

March 8, 2005

DESCRIPTION OF
EASEMENT FOR GRADING, UTILITIES AND ACCESS
ON
A&T LOT 805
SQUARE 3781

BEGINNING at a point being a corner common to A&T Lot 805, Square 3781, A&T Lot 811, Square 3788 and the terminus of Emerson Street, thence running with the lines being common to A&T Lot 805, Square 3781 and A&T Lot 811, Square 3788 the following courses and distances

South 03°56'40" East, 38 36 feet to a point,
North 88°12'50" West, 30 15 feet to a point,
North 03°56'40" West, 25 15 feet to a point and
North 88°12'50" West, 13 16 feet to a point,

Thence running through A&T Lot 805, Square 3781, the following courses and distances·

North 01°33'50" West, 71 85 feet to a point and
EAST 40 21 feet to a point in the east line of A&T Lot 805, Square 3781 and being the northwest corner of the terminus of Emerson Street,

Thence running with the terminus of Emerson Street, South 03°56'40" East, 60 14 feet to the point of beginning

CONTAINING 3,779 square feet or 0.0868 acres

Bowman Consulting Group, Ltd
2121 Eisenhower Avenue Suite 302 Alexandria, VA 22314
Tel 703-548-2188 Fax 703-683-5781 www bowmanconsulting com

Bowman
CONSULTING

EXHIBIT C

March 8, 2005

DESCRIPTION OF
GRADING EASEMENT
ON
A&T LOT 805
SQUARE 3781

BEGINNING at a point being a corner common to A&T Lot 805, Square 3781, A&T Lot 811, Square 3788 and the terminus of Emerson Street, thence running with the lines being common to A&T Lot 805, Square 3781 and A&T Lot 811, Square 3788 the following courses and distances

South 03°56'40" East, 38 36 feet to a point,
North 88°12'50" West, 30 15 feet to a point,
North 03°56'40" West, 25 15 feet to a point and
North 88°12'50" West, 13 16 feet to the TRUE POINT OF BEGINNING

Thence continuing with the line common to A&T Lot 805, Square 3781 and A&T Lot 811, Square 3788, the following courses and distances

North 88°12'50" West, 445 05 feet to a point and
North 04°20'40" West, 35 20 feet to a point,

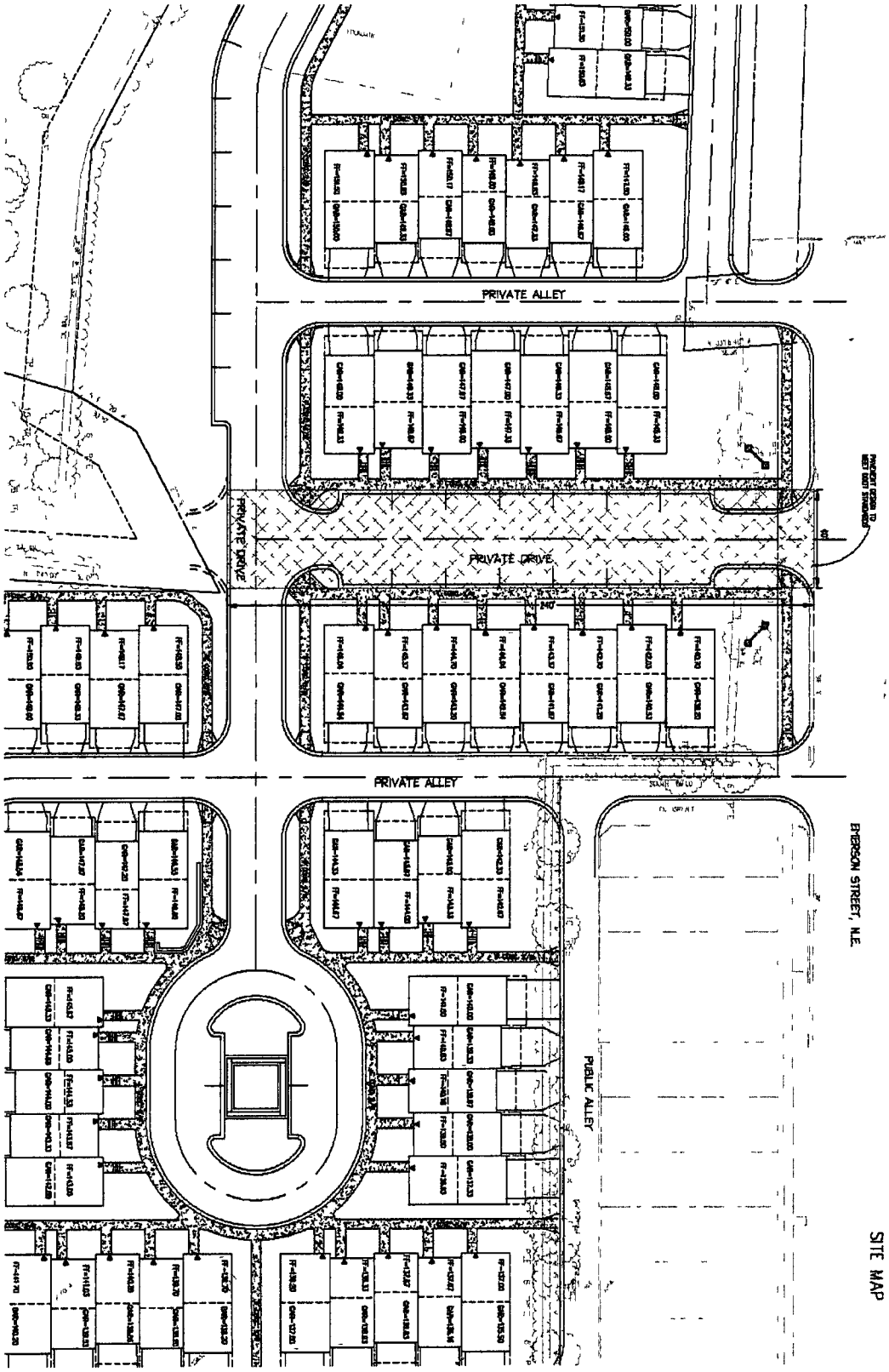
Thence running through A&T Lot 805, Square 3781, the following courses and distances

South 88°12'50" East, 446.76 feet to a point and
South 01°33'50" East, 35.06 feet to the TRUE POINT OF BEGINNING

CONTAINING 15,607 square feet or 0 3583 acres

Bowman Consulting Group, Ltd
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Tel. 703-548-2188 Fax: 703-683-5781 www.bowmanconsulting.com

EXHIBIT D



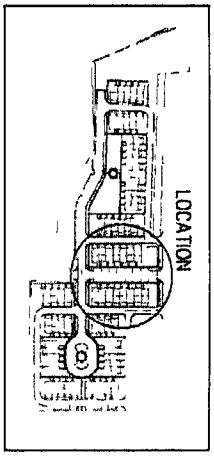


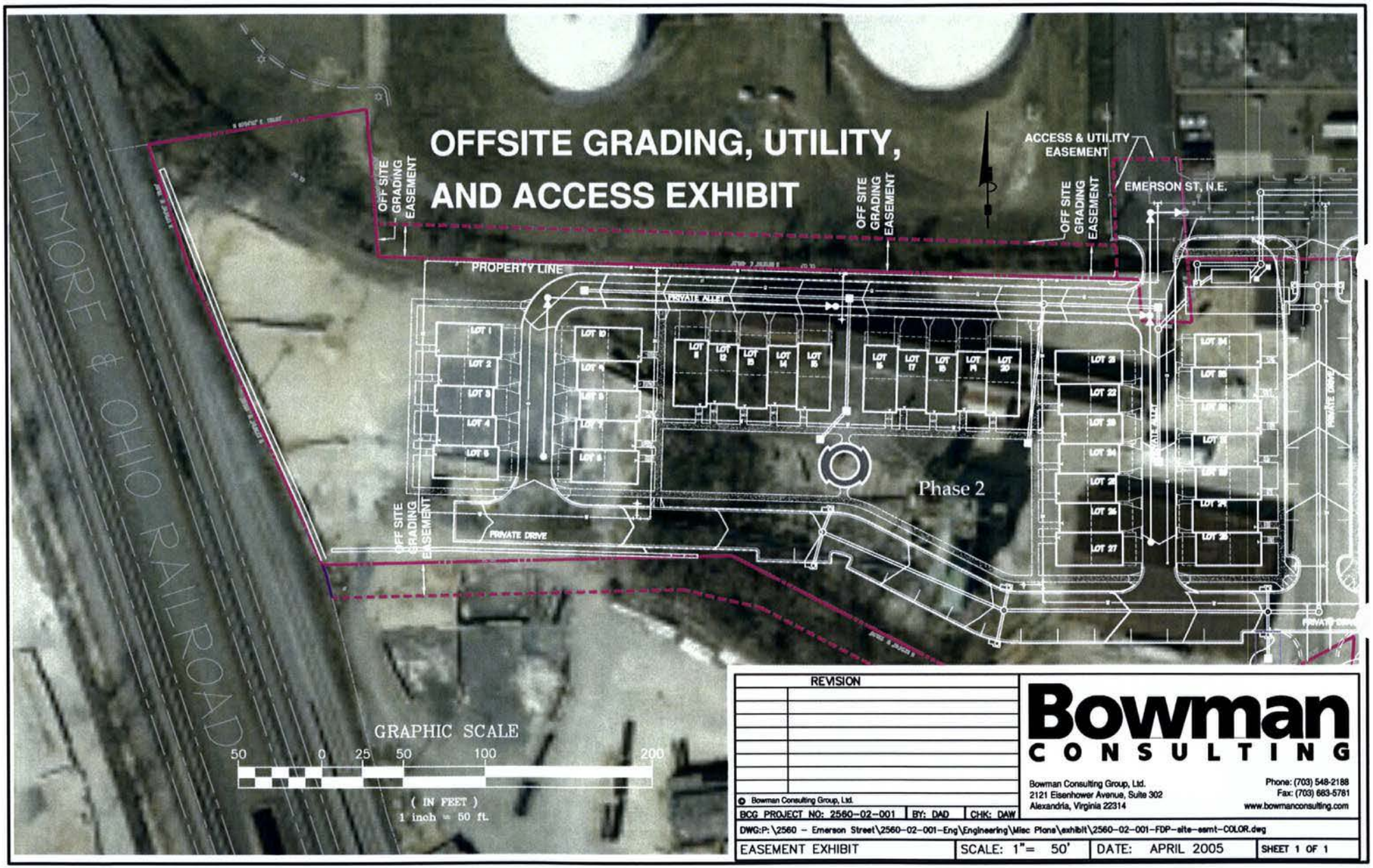
EXHIBIT-PRIVATE DRIVE ISLE

EMERSON PARK P U.D.

WASHINGTON DISTRICT OF COLUMBIA

Bowman CONSULTING

OFFSITE GRADING, UTILITY, AND ACCESS EXHIBIT



REVISION	

© Bowman Consulting Group, Ltd.

BCG PROJECT NO: 2560-02-001 | BY: DAD | CHK: DAW

DWG:P:\2560 - Emerson Street\2560-02-001-Eng\Engineering\Misc Plans\exhibit\2560-02-001-FDP-site-esmt-COLOR.dwg

EASEMENT EXHIBIT | SCALE: 1"= 50' | DATE: APRIL 2005 | SHEET 1 OF 1

Bowman CONSULTING

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Alexandria, Virginia 22314

Phone: (703) 548-2188
Fax: (703) 683-5781
www.bowmanconsulting.com

EXHIBIT C

Construction Management Plan
Emerson Park – Rocky Gorge at Fort Totten
April 2005

Rocky Gorge at Fort Totten, LLC ("Developer") proposes the following Construction Management Plan to minimize any impacts on adjacent residential properties from construction of the 75-townhouse Emerson Park development (the "Project") at 611 Emerson Street, NE (the "Project Site") While Developer will not be undertaking the construction of the Project, it will be enlisting the services of one or more contractors (the "Contractors") to construct the Project Developer will ensure that the terms of this Construction Management Plan are included as conditions of its employment/services contracts with the Contractors References herein to Developer shall include reference to the Contractors, as applicable

This Construction Management Plan consists of the following elements

1. Construction.

It is anticipated that construction activities will start at the Project Site on or about the first quarter of 2006

a. Permits.

Developer will secure all permits that are required to complete the Project. Developer will provide the Community Contact Person (identified in Section 3 below) with notification of any permits that require partial or total closures of streets or sidewalks, except in emergency situations

b. Site Management.

Construction offices will be located in trailers on the Project Site or on adjacent public spaces with public space permits Such trailers will be kept in a clean and orderly condition

A minimum amount of lighting will be provided at the Project Site at night. Said lighting will be sufficient to provide necessary security and to comply with federal and municipal safety standards The lights will be directed at the areas to be lighted within the Project Site and, to the greatest extent possible, away from neighboring residences.

Developer will erect and maintain construction fencing and barricades along all streets and alleys bordering the Project Site in order to screen and secure the Project Site during the construction process.

c. Cleanliness.

Developer will remove rubbish and construction debris regularly from the Project Site throughout the construction period during the normal construction workday and during periods of overtime and weekend construction work

Trucks carrying excavation material and debris from the Project Site will be covered with tarps Trucks shall enter/exit the Project Site at Emerson Street. Developer encourages neighboring residents to report to the Community Contact Person and/or the Developer Contact Person (identified in Section 3 below) any trucks servicing the Project Site which do not comply with this Construction Management Plan. Violators will be issued notice that a repeat offense will result in that truck driver not being allowed to enter the Project Site in the future.

Developer will clean Emerson Street and any other impacted streets along the designated trucking route (referenced herein at Section 2) of any fallen excavation material and debris from trucks entering/exiting the Project Site, including sweeping up any soil spread by said vehicles, as needed and appropriate

d. Work Hours.

The normal construction work week will be Monday through Friday from 7·00 a.m until 7·00 p m , and Saturday from 8·00 a m. until 5:00 p m, or as otherwise provided under the District of Columbia Building Code All trucks for delivery of all materials, construction or otherwise, will arrive, depart and operate on the Project Site only during the foregoing hours. During certain phases of the construction, overtime hours may be necessary. Whenever overtime hours will be necessary, Developer will provide notification to the Community Contact Person at least 24 hours prior to implementation of the overtime hours (unless an emergency situation occurs or an unforeseen and urgent construction situation occurs, in which instance Developer will provide notice to the Community Contact Person as soon as possible) Such notification shall include the proposed overtime hours, a description of the type of work to be done in those hours, and the potential impact of the work on noise, dirt and traffic in the area. In order to perform work during overtime hours, Developer will be required to obtain an after hours construction permit from the District of Columbia. There will be no Sunday construction work permitted.

e. Subcontractors.

The Contractors for the Project will have full responsibility for all subcontractors employed by them to work on the Project They will ensure that the subcontractors follow the terms of the Contractors' agreements with Developer and comply with the policies set forth in this Construction Management Plan

Developer will not permit or tolerate off-site picnicking by workers employed by either the Contractors or subcontractors (the "Workers") on residential streets In addition, Workers shall not drink alcoholic beverages either openly or from paper bags in the foregoing residential areas before, during or after work hours

2. Traffic, Parking and Loading.

All construction-related vehicular access to the Project site shall be via Emerson Street. Developer will ensure that queuing of trucks for the Project will occur on the Project Site to the greatest extent possible Trucks will not park on neighboring streets in front of residences. When queuing on the streets is required, it will be for the minimum amount of time possible. Trucks in the queue will turn their engines off, until ready to move To the extent possible, trucks on the Project Site will turn their engines off, except when powering equipment actively in use

All Contractors, subcontractors and/or material suppliers will be provided with written instructions that establish the approved truck routing to and from the Project Site, such route(s) to be determined by Developer after consultation with the Department of Transportation and to be provided to the Community Contact Person for dissemination to interested neighbors Developer encourages neighboring residents to report to the Community Contact Person and/or the Developer Contact Person (identified in Section 3 below) any trucks servicing the Project Site which do not comply with the established construction traffic route(s).

Parking for Workers and visitors to the construction trailers will be provided for on the Project Site. The Contractors will be responsible for notifying Workers on a regular basis of the parking restrictions set forth herein.

3. Communication.

The purpose of the Community Contact Person is to serve as a liaison between Developer and neighboring residents, receiving and disseminating information regarding the construction of the Project The Community Contact Person shall be selected by the ANC 5A Commissioners for Single Member Districts 5A03 and 5A04. Developer and the Contractors shall designate a representative ("Developer Contact Person") to be the key contact for interaction with the Community Contact Person throughout the construction period

At any time construction activity is occurring on the Project Site, the Developer Contact Person shall be available to receive complaints or other communications from the Community Contact Person The name and work telephone number of the Developer Contact Person also shall be conspicuously posted at the Project Site and shall be readily available to members of the community. In addition, a name and telephone number of a person designated by Developer to be contacted in case of emergency during hours in which no construction activity is occurring shall be made available to the Community Contact Person and posted at the Project Site.

The Developer Contact Person shall: (i) receive notice of any violations of this Construction Management Plan; (ii) respond as soon as possible to the person who has reported the violation, and (iii) act to remedy the violation as soon as possible The Developer Contact Person will be able to answer questions and receive comments about the site activities, address any concerns the Community Contact Person and members of the community might have throughout the construction process, and have authority to remedy violations of the Construction Management Plan and enforce its provisions The Community Contact Person and the Developer Contact Person shall meet regularly, and at least quarterly throughout the construction period, to discuss any concerns regarding the Project of which the Community Contact Person has been notified.

4. **Condition of PUD Approval.**

Developer has submitted this Construction Management Plan to the District of Columbia Zoning Commission as part of its consolidated Planned Unit Development and Map Amendment application If the Zoning Commission so determines, the Construction Management Plan shall be incorporated and become a condition of any Zoning Commission approval of the consolidated applications

ROCKY GORGE AT FORT TOTTEN, LLC

_____

Name.
Title

2441405_v3

REDLINE

COMPARING VERSION OF CONSTRUCTION MANAGEMENT PLAN

AS ORIGINALLY SUBMITTED AND AS REVISED

Construction Management Plan
Emerson Park – Rocky Gorge at Fort Totten
~~December 2004~~
April 2005

Rocky Gorge at Fort Totten, LLC ("Developer") proposes the following Construction Management Plan to minimize any impacts on adjacent residential properties from construction of the 75-townhouse Emerson Park development (the "Project") at 611 Emerson Street, NE (the "Project Site"). While Developer will not be undertaking the construction of the Project, it will be enlisting the services of one or more contractors (the "Contractors") to construct the Project. Developer will ensure that the terms of this Construction Management Plan are included as conditions of its employment/services contracts with the Contractors. References herein to Developer shall include reference to the Contractors, as applicable.

This Construction Management Plan consists of the following elements:

1. Construction.

It is anticipated that construction activities will start at the Project Site on or about the first quarter of 2006.

a. Permits.

Developer will secure all permits that are required to complete the Project. ~~Except in emergency situations,~~ Developer will provide the Community Contact Person (identified in Section 3 below) with notification of any permits that require partial or total closures of streets or sidewalks, except in emergency situations.

b. Site Management.

Construction offices will be located in trailers on the Project Site or on adjacent public spaces with public space permits. Such trailers will be kept in a clean and orderly condition.

A minimum amount of lighting will be provided at the Project Site at night. Said lighting will be sufficient to provide necessary security and to comply with federal and municipal safety standards. The lights will be directed at the areas to be lighted within the Project Site and, to the greatest extent possible, away from neighboring residences.

Developer will erect and maintain construction fencing and barricades along all streets and alleys bordering the Project Site in order to screen and secure the Project Site during the construction process.

c. **Cleanliness.**

Developer will remove rubbish and construction debris regularly from the Project Site throughout the construction period during the normal construction workday and during periods of overtime and weekend construction work.

Trucks carrying excavation material and debris from the Project Site will be covered with tarps. Trucks shall enter/exit the Project Site at Emerson Street. Developer encourages neighboring residents to report to the Community Contact Person and/or the Developer Contact Person (identified in Section 3 below) any trucks servicing the Project Site which do not comply with this Construction Management Plan. Violators will be issued notice that a repeat offense will result in that truck driver not being allowed to enter the Project Site in the future.

Developer will clean Emerson Street and any other impacted streets along the designated trucking route (referenced herein at Section 2) of any fallen excavation material and debris from trucks entering/exiting the Project Site, including sweeping up any soil spread by said vehicles, as needed and appropriate.

d. **Work Hours.**

The normal construction work week will be Monday through Friday from 7.00 a.m. until 7:00 p.m , and Saturday from 8:00 a.m. until 5:00 p.m, or as otherwise provided under the District of Columbia Building Code All trucks for delivery of all materials, construction or otherwise, will arrive, depart and operate on the Project Site only during the foregoing hours. During certain phases of the construction, overtime hours may be necessary. Whenever overtime hours will be necessary, Developer will provide notification to the Community Contact Person at least 24 hours prior to implementation of the overtime hours (unless an emergency situation occurs or an unforeseen and urgent construction situation occurs, in which instance Developer will provide notice to the Community Contact Person as soon as possible). Such notification shall include the proposed overtime hours, a description of the type of work to be done in those hours, and the potential impact of the work on noise, dirt and traffic in the area. In order to perform work during overtime hours, Developer will be required to obtain an after hours construction permit from the District of Columbia. There will be no Sunday construction work permitted

e. **Subcontractors.**

The Contractors for the Project will have full responsibility for all subcontractors employed by them to work on the Project. They will ensure that the subcontractors follow the terms of the Contractors' agreements with Developer and comply with the policies set forth in this Construction Management Plan.

Developer will not permit or tolerate off-site picnicking by workers employed by either the Contractors or subcontractors (the "Workers") on residential streets. In addition, Workers shall not drink alcoholic beverages either openly or from paper bags in the foregoing residential areas before, during or after work hours.

2. Traffic, Parking and Loading.

All construction-related vehicular access to the Project site shall be via Emerson Street. Developer will ensure that queuing of trucks for the Project will occur on the Project Site to the greatest extent possible. Trucks will not park on neighboring streets in front of residences. When queuing on the streets is required, it will be for the minimum amount of time possible. Trucks in the queue will turn their engines off, until ready to move. To the extent possible, trucks on the Project Site will turn their engines off, except when powering equipment actively in use.

All Contractors, subcontractors and/or material suppliers will be provided with written instructions that establish the approved truck routing to and from the Project Site, such route(s) to be determined by Developer after consultation with the Department of Transportation and to be provided to the Community Contact Person for dissemination to interested neighbors. Developer encourages neighboring residents to report to the Community Contact Person and/or the Developer Contact Person (identified in Section 3 below) any trucks servicing the Project Site which do not comply with the established construction traffic route(s).

Parking for Workers and visitors to the construction trailers will be provided for on the Project Site The Contractors will be responsible for notifying Workers on a regular basis of the parking restrictions set forth herein.

3. Communication.

The purpose of the Community Contact Person is to serve as a liaison between Developer and neighboring residents, receiving and disseminating information regarding the construction of the Project The Community Contact Person shall be selected by the ANC 5A Commissioners for Single Member Districts 5A03 and 5A04. Developer and the Contractors shall designate a representative ("Developer Contact Person")
to be the key contact for interaction with the Community Contact Person throughout the construction period.

At any time construction activity is occurring on the Project Site, the Developer Contact Person shall be available to receive complaints or other communications from the Community Contact Person. The name and work telephone number of the Developer Contact Person also shall be conspicuously posted at the Project Site and shall be readily available to members of the community. In addition, a name and telephone number of a person designated by Developer to be contacted in case of emergency during hours in which no construction activity is occurring shall be made available to the Community Contact Person and posted at the Project Site.

The Developer Contact Person shall: (i) receive notice of any violations of this Construction Management Plan; (ii) respond as soon as possible to the person who has reported the violation, and (iii) act to remedy the violation as soon as possible. The Developer Contact Person will be able to answer questions and receive comments about the site activities, address any concerns the Community Contact Person and members of the community might have throughout the construction process, and have authority to remedy violations of the Construction Management Plan and enforce its provisions The Community Contact Person and the Developer Contact Person shall meet regularly, and at least quarterly throughout the construction period, to discuss any concerns regarding the Project of which the Community Contact Person has been notified

4. **Condition of PUD Approval.**

Developer has submitted this Construction Management Plan to the District of Columbia Zoning Commission as part of its consolidated Planned Unit Development and Map Amendment application. If the Zoning Commission so determines, the Construction Management Plan shall be incorporated and become a condition of any Zoning Commission approval of the consolidated applications.

ROCKY GORGE AT FORT TOTTEN, LLC

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Name:
Title:

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