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May 1, 2008

VIA HAND DELIVERY

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

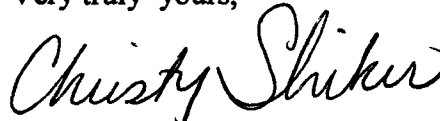
Re: **Proposed Findings of Fact and Conclusions of Law- ZC Case No. 04-14**
100 Block of Potomac Avenue, SE – Florida Rock Properties, Inc.

Dear Members of the Commission:

On behalf of Florida Rock Properties, Inc., enclosed please find twenty copies of the Proposed Findings of Fact and Conclusions of Law for the above-referenced case. We look forward to the Commission's consideration of this application for final action at its special public meeting scheduled for May 22, 2008.

Should the Commission have any questions or need additional information, please do not hesitate to have Office of Zoning staff contact me.

Very truly yours,


Christine Moseley Shiker

Enclosures

cc: Joel Lawson, Office of Planning (Via Hand; w/enc)
Advisory Neighborhood Commission 6D (Via Hand; w/enc)

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ZONING COMMISSION
District of Columbia

CASE NO.

EXHIBIT NO.

04-14

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ZONING COMMISSION
District of Columbia
CASE NO. 04-14
EXHIBIT NO. 99

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D.C. OFFICE OF ZONING

RECEIVED

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-14
Case No. 04-14
(Second-Stage Planned Unit Development and
Zoning Map Amendment for the Florida Rock Development in the 100 Block of Potomac
Avenue, S.E.)

May 22, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia ("Zoning Commission" or "Commission") held a public hearing on March 20, 2008, to consider applications from Florida Rock Properties, Inc. (the "Applicant") for second-stage approval of a planned unit development ("PUD") and companion zone district designation. The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia 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 Hearings

1. On May 21, 2004, the Applicant filed applications for second-stage review and approval of a PUD and related zone district designation of the site of the PUD to confirm the zoning of C-3-C approved in the first-stage PUD approval (the "May 2004 Application"). The subject property is located in the 100 block of Potomac Avenue, S.E., bounded by Potomac Avenue along its northwestern edge, a portion of the former right of way of First Street, S.E. to the east, the Anacostia River to the southeast and south, and the Frederick Douglass Memorial Bridge and the Bridge's approaches to the west and southwest (the "PUD Site"). The PUD Site consists of approximately 253,500 square feet of land in Squares 707 (Lots 800, 801 and 802), 708 (Lot 809), 708E (Lots 807 and 808) and 708S (Lot 806).
2. At its July 12, 2004, public meeting, the Zoning Commission considered the May 2004 Application for set down. The Zoning Commission identified several matters related to the proposed project on which the Commission felt it needed additional information prior to consideration of the May 2004 Application for set down. On August 26, 2004, the Applicant filed a Supplemental PUD Submission providing this additional information.
3. At its September 13, 2004, public meeting, the Zoning Commission set the case down for hearing. In anticipation of the hearing scheduled for December 8, 2005, the Applicant filed a Prehearing Submission on May 2, 2005, and a Supplemental Prehearing Submission on November 18, 2005.

4. Prior to the hearing on this case, the District announced that the new Washington Nationals' baseball stadium (the "Stadium") would be constructed immediately across Potomac Avenue from the PUD Site. In addition, during this time, the District made progress on its announced plans for the reconstruction of South Capitol Street, including the reconstruction of the intersection of South Capitol Street and Potomac Avenue, S.E., as well as for the replacement and realignment of the Frederick Douglass Memorial Bridge (the "Bridge"). As a result of the Stadium announcement, the uncertainty regarding the design of the Stadium, the Bridge and the South Capitol Street re-alignment proposal and the variety of other unresolved area wide planning issues, the Applicant agreed to the request of the Anacostia Waterfront Corporation ("AWC") to postpone the scheduled hearing for a period of 120 days.
5. During the postponement period, which was approximately eight months, the Applicant worked extensively with AWC, the District Office of Planning ("OP"), the District Department of Transportation ("DDOT") and the DC Sports and Entertainment Commission to craft modifications to the project to respond to the various changes to the surrounding area. The revised project was set forth in the Applicant's Modified Prehearing Submission filed with the Commission on August 25, 2006 (the May 2004 Application, as modified or supplemented by the Supplemental PUD Submission, Prehearing Submission, the Supplemental Prehearing Submission and the Modified Prehearing Submission, being the "Modified PUD Submissions").
6. After proper notice, the Zoning Commission held a public hearing on the Modified PUD Submissions on September 18, 2006. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the PUD Site is located.
7. At the conclusion of the public hearing on September 18, 2006, the Zoning Commission requested that several matters be further reviewed and addressed in a post-hearing submission by the Applicant. The Applicant submitted materials on November 17, 2006 in response to those matters of inquiry. The Commission held a further public hearing on November 27, 2006, for the purpose of asking questions related to the post-hearing materials submittal. The Commission allowed the Applicant to make three additional submittals for the record arising out of the November 27th hearing; those submittals were made on December 11, 2006 (the Supplemental Post-hearing Submission, with the Modified PUD Submissions, as otherwise modified or supplemented, being the "Modified Revised Applications").
8. At its public meeting held on February 22, 2007, the Zoning Commission discussed several issues of concern with the Modified Revised Applications and requested that the Applicant return to the Zoning Commission with revised plans to address those concerns.

9. By letter dated March 2, 2007, the Applicant requested clarification from the Commission as to the Commission's specific issues. At its regular meeting on March 12, 2007, the Commission confirmed that the Applicant's letter correctly summarized the Commission's primary concerns, which included the following:
 - a. The footprint of the east end of the proposed East Office Building, as revised before the November, 2006, hearing, still did not satisfactorily recognize the location and nature of the grand stair of the Stadium to the north and the view corridor from that grand stair to the River;
 - b. The continued recognition in the site plan of the legacy of Half Street through the project to the River was no longer necessary;
 - c. While there was general agreement among Commissioners that 4.4 FAR was an appropriate density for the PUD Site, the proposed project lacked the right "civic character" and that a greater presence of residential uses, preferably apartment units, would be more appropriate;
 - d. The proposed project lacked a "sense of place" – a defining element(s) notwithstanding its unique location adjacent to the Stadium and its frontage on the Anacostia River; and
 - e. The proposed project amenity of a viewing pier extending into the Anacostia River was not a necessary or contributing element to the project.
10. As set forth in Findings 44 through 67, the Commission finds that each of these issues has been satisfactorily addressed in the Final PUD Application.
11. By correspondence dated June 1, 2007, the Applicant submitted a letter including a modified site plan for the project that proposed a change in use allocation, density adjustments and height of building modifications responsive to the Commission's concerns. The Commission commented favorably on the modified plan and requested that the Applicant submit a revised PUD application.
12. On September 21, 2007, the Applicant filed a revised application with the Zoning Commission, which was further supplemented on November 8, 2007. The Zoning Commission set the Final PUD Application for hearing at its public meeting on November 19, 2007. On February 28, 2008, the Applicant submitted its Supplemental Prehearing Submission in advance of the hearing. The September 2007, November 2007, and February 2008 submissions are collectively referred to as the "Final PUD Application."

13. After proper notice, the Zoning Commission held a public hearing on the Final PUD Application on March 20, 2008. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the PUD Site is located
14. The Applicant presented three witnesses in its direct presentation, Mr. David deVilliers of Florida Rock Properties, Inc.; Davis Buckley, architect with the firm of Davis Buckley Architects and Planners; and Steven Sher, Land Planner with Holland & Knight. Messrs. Buckley and Sher were accepted as experts in their respective fields. Additional expert witnesses answered questions and were accepted as experts in their designated fields, including Ray Kaskey, expert in sculpture, and Jon Eisen, expert in retail development and retail planning.
15. At the conclusion of the hearing, the Zoning Commission took proposed action to approve the Final PUD Application. The Commission requested additional information regarding two specific issues – a revised design for the South Capitol Street façade of the Hotel Building and information regarding the structural design aspects of the Potomac and Capitol Quay.
16. The Applicant submitted its Post-Hearing Submission on May 1, 2008, presenting a revised design for the Hotel Building's South Capitol Street façade and summarizing an example of a structural design similar to the proposed design of the Potomac and Capitol Quay.
17. The proposed action of the Zoning Commission was officially referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by delegated action dated April 25, 2008, found that the project would not be inconsistent with the Comprehensive Plan for the National Capital nor adversely affect any other federal interests.
18. The Zoning Commission took final action by a vote of _____ to approve the Final PUD Application at its public meeting held on May 22, 2008.

Procedural History

19. In 1998, the Zoning Commission reviewed and approved a first-stage PUD application and related zoning map amendment for the PUD Site in Zoning Commission Case No. 95-16P, as reflected in Zoning Commission Order No. 850. In that case, the Zoning Commission approved a development plan which included a maximum height of 130 feet with a maximum 6.0 FAR to be devoted to commercial and retail uses and approved a rezoning of the PUD Site to C-3-C.

20. By Order No. 910, dated November 8, 1999, the Zoning Commission granted second-stage approval for a PUD, allowing approximately 1.5 million square feet of commercial development in two buildings – one with a height of 130 feet and the second with a height of 110 feet – constructed above a single below-grade, off-street parking facility.
21. On November 9, 2001, the Applicant timely filed a request for extension of the second-stage PUD approval, which was due to expire on November 26, 2001. This request was the first extension request made by the Applicant.
22. In Order No. 910-A, dated May 13, 2002, the Zoning Commission denied the Applicant's request for a time extension based on the Zoning Commission's concern that the approved second-stage PUD would be in conflict with the District's then on-going planning efforts for the near Southeast and Southwest areas, including Buzzard Point.
23. On December 2, 2002, the Applicant filed with the Commission a motion for reconsideration of the Commission's action to deny the time extension as contained in Order No. 910-A. In the motion, the Applicant asserted that the Commission had erred in denying the time extension, but also put forth a set of design guidelines, developed in consultation with OP, which would set the parameters for any second-stage PUD proposal that the Applicant could submit to the Commission for second-stage review and approval. The design guidelines changed the proposed program for the project, reducing the maximum heights of buildings, reducing the permitted density, increasing the width of the Waterfront Esplanade along the Anacostia River waterfront, and introducing additional access to the waterfront from Potomac Avenue, which reduced the perceived massing of the project. Additionally, the Applicant proposed to change the project from one containing retail and office uses only to one containing a mix of residential, hotel, office, retail, and commercial uses. OP filed a report with the Commission supporting the Applicant's request.
24. At its January 13, 2003, monthly meeting, the Zoning Commission voted not to reconsider its previous denial of the time extension for the second-stage approval of the PUD, but agreed to reconsider its previous denial of a time extension related to the first-stage approval of the PUD. During the Commission's consideration of the motion, the Commission noted its continued discomfort with the height permitted under the proposed design guidelines offer by the Applicant; the Commission indicated that lesser heights of buildings were preferable. On February 14, 2003, the Applicant submitted to the Commission a revision to the proposed design guidelines, which proposed lesser heights of buildings and resulting changes in gross floor area calculations.
25. On February 24, 2003, the Commission voted to grant a time extension of the first-stage approval of the PUD for a period of one year, subject to and as modified by the OP-endorsed revised design guidelines. This approval was set forth in Order No. 910-B and

the design guidelines ("Design Guidelines") were attached thereto and made part of that order.

The PUD Site and the Area

26. The PUD Site is situated in Ward 6 and consists of approximately 253,500 square feet of land with approximately 827 linear feet of frontage along the Anacostia River. The PUD Site is currently used for concrete mixing and batching operations and for the open storage of gravel and other stone aggregates used in these operations.
27. Based on the Comprehensive Plan in effect at the time the May 2004 Application was filed, the Generalized Land Use Map of the Comprehensive Plan designated the PUD Site and surrounding area as mixed use for medium-high density commercial, production and technical employment, and high density residential. It also designated the PUD Site within a development opportunity area and within the Central Employment Area. Prior to the submission of the Final PUD Application, the Comprehensive Plan of 2006 went into effect. Under this plan, the PUD Site is designated by the Future Land Use Map in the mixed-use medium density residential/medium density commercial category.
28. The PUD Site is not a designated historic landmark nor is it within a historic district.
29. In the immediate vicinity of the PUD Site, the Stadium, immediately to the north of the PUD Site, has recently been constructed. To the east, the Southeast Federal Center has been approved as a mixed-use project, with the Department of Transportation's headquarters facility located therein having been completed.
30. As set forth in Finding 4, DDOT announced plans and is moving forward with the process for the reconstruction of South Capitol Street, with the current plan being to construct an oval/circus ("South Capitol Street Oval") at the intersection of South Capitol Street and Potomac Avenue. In addition, DDOT announced plans to replace and relocate the Bridge on a southern alignment at South Capitol Street.
31. The boundaries of the PUD Site for the project assume a land exchange with DDOT. In order for the South Capitol Street Oval to be constructed, a portion of the PUD Site would have to be acquired by the District. In an effort to cooperate with DDOT so that land required from the PUD Site for the South Capitol Street Oval would be readily available to the District, DDOT and the Applicant preliminarily agreed to a land exchange in the future. This preliminary agreement is set forth in Tab B to the Applicant's Modified Supplemental Prehearing Submission, found in the record at Exhibit 31, and DDOT's Supplemental Report, dated November 27, 2006, found in the record at Exhibit 52. The land exchange would create a more uniform property line between DDOT holdings and the PUD Site and would regularize the shape of the

resulting land parcels held by each. The land exchange does not alter the total lot area of the PUD Site, but only creates a more regular form of what is presently a very irregular property line of the PUD Site to the west and southwest. The land exchange benefits the District in that it eliminates an undevelopable parcel fronting on approximately 195 feet of the South Capitol Street Oval that would be in the District's ownership, and also benefits the District by creating a developable parcel with water frontage for DDOT between the proposed relocated Bridge right-of-way and the PUD Site.

Existing and Proposed Zoning

32. At the time of the comprehensive rezoning of the District in 1958, the PUD Site and the area immediately to the east, south and west were designated in the M zone district. The M and C-M-2 zone districts were also mapped in the surrounding area.
33. Under Zoning Commission Order No. 850, the Zoning Commission rezoned the PUD Site to C-3-C in connection with the approved first-stage PUD.
34. Based on Zoning Commission Order No. 971, the area surrounding the PUD Site was rezoned to be included in the Capitol Gateway Overlay, with accompanying rezoning to the underlying base zone. The purpose of this overlay was to designate specific areas for mixed-use redevelopment as identified in the District of Columbia Comprehensive Plan for the National Capital. In addition to restrictions on use, FAR, and height, many of the properties included within the Capital Gateway Overlay were made subject to an additional development review process. If this rezoning applied to the PUD Site, the PUD Site would be zoned CG/W-2.
35. Under the Final PUD Application, the zoning of the PUD Site would continue to be C-3-C. The C-3 District is designed to accommodate important sub-centers supplementary to the Central Business District. More specifically, the C-3-C District permits medium-high density development, including office, retail, housing and mixed-use development which is compact in area. The C-3-C District permits a maximum height of ninety feet, with no limit on the number of stories, and a maximum FAR of 6.5. Under the PUD guidelines for the C-3-C District, the maximum height may be 130 feet and the maximum FAR may be 8.0. The Applicant proposes to develop a project within these development parameters, having a maximum FAR of 4.4 and a maximum height of 130 feet, generally consistent with the Design Guidelines.

The PUD Project

36. The Final PUD Application includes the construction of a mixed-use project of office, retail, residential and hotel uses on the PUD Site. The project is to be developed as four

separate buildings that are situated to create multiple vistas and views to and from the Anacostia River and the Stadium.

37. The east end of the PUD Site will be developed with an office building with ground floor retail (the "East Office Building"). The East Office Building has a maximum height of 92 feet. The East Office Building is sited to respect the view corridors from the Stadium's grand staircase. Adjacent to the East Office Building is an apartment building with ground floor retail (the "Residential Building"). The Residential Building has a maximum height of 130 feet. The East Office Building and the Residential Building are linked together by the Potomac Quay, which is a glass-enclosed retail galleria extending from Potomac Avenue to the waterfront. A second office building with ground floor retail turns the corner at the intersection of Potomac Avenue, S.E., and South Capitol Street, S.E. (the "West Office Building"). The West Office Building has a maximum height of 112. To the south of the West Office Building and connected by the glass-enclosed Capitol Quay, sits the hotel with ground floor hotel-related retail uses and residential uses located on the top two floors (the "Hotel Building"). The Hotel Building has a maximum height of 130 feet.
38. The project includes a total of 1,115,400 square feet of gross floor area, or a maximum of 4.4 FAR. The PUD includes 569,623 square feet of gross floor area devoted to residential and hotel uses, or 2.25 FAR. The PUD also includes 545,777 square feet of gross floor area, or 2.15 FAR, devoted to commercial uses, including a minimum of 80,000 square feet of gross floor area devoted to retail use.
39. The project incorporates two open, civic spaces. At the east end of the project is an area to be known as Anacostia Place. On the western end of the project, the Cascade Plaza serves as the major open space. Each of these spaces provides direct access to the terraced and landscaped waterfront esplanade (the "Esplanade") which extends for the full length of the project's frontage on the Anacostia River.
40. Anacostia Place is an open, civic space that provides for the free-flow of pedestrians from the Stadium's grand staircase and from First Street through and to both the project's waterfront Esplanade and to Diamond Teague Park. This space features a monumental fountain/sculpture that celebrates the heritage of the Anacostia River by featuring representations of wildlife, flora and fauna of the river in its original state. The artwork centerpiece is surrounded by three seasonal and sculptural fabric structures serving as potential vendor pavilions and shade structures. The design and plantings for Anacostia Place has been coordinated with the Office of the Deputy Mayor for Planning and Economic Development ("DMPED") and its developing plans for Diamond Teague Park, immediately east of Anacostia Place.

41. The Cascade Plaza is the center of civic activity on the western portion of the PUD Site, serving as a focal, organizing civic space as well as the front door and entryway to the project's Residential Building, West Office Building and Hotel Building. In addition, the Cascade Plaza, provides a vehicular access drive for each of these three buildings, giving them an "address" on the Plaza. The central portion of the space is a landscape water sculpture with water pools and plant materials. In addition to the center water oval component, the Cascade Plaza includes a cascading water stair between the two staircases linking the Cascade Plaza to the Esplanade and the river beyond. The cascade water elements as well as the center water oval component are elements of the overall biofiltration program for the project while providing an aesthetic focal point for the uses that surround the Plaza.
42. The project incorporates a bike path along the waterfront, which includes special paving, two directional lanes with a divider strip and reflectors, and light bollards to visually define the bike path in the areas that the bike path traverses the pedestrian zones. This bike path will ultimately connect to the trail to the southwest and east of the PUD Site.
43. The design of the project as presented in the Final PUD Application has been substantially modified throughout the PUD process as a result of discussions with OP, DDOT, DMPED, and the community. The resulting project is one that responds to the many surrounding contextual determinants, including celebrating its waterfront location, being a fitting compliment to the Stadium immediately to the north and providing an important façade for the future South Capitol Street oval to the west.

East Office Building

44. The Zoning Commission noted its concern regarding the footprint of the east end of the East Office Building, especially in its relationship to the grand stair of the Stadium and the impact on the view corridor from that grand stair to the River.
45. In the Final PUD Application, a curved building line for the East Office Building is introduced along Potomac Avenue and the orientation of the East Office Building is rotated slightly off line with the Potomac Avenue right-of-way line. These two changes bring the west end of the East Office Building closer to the river on the East Office Building's south side. This re-orientation eliminates any vestige of Half Street, S.E., and instead recognizes the importance of the Potomac Avenue right-of-way.
46. The view corridors created at the Potomac Quay and at the lane leading to the Cascade Plaza to the west of the Residential Building further eliminate the earlier Half Street, S.E. viewshed. The re-aligned East Office Building responds to and emphasizes the view corridors and access points through the project when approaching the project from the grand staircase of the Stadium along Potomac Avenue, as well as from the entrance of the

Stadium at the intersection of Potomac Avenue, S.E. and South Capitol Street. This orientation along with the sculptural elements of the design of both the East Office Building and the Residential Building creates a complementary relationship between the Potomac Avenue façades of the project and the design of the Stadium to the north.

47. In its report, OP noted that the East Office Building was moved to the west to provide significantly improved views from the south entrance of the Stadium. OP further noted that the overall form and massing of the buildings along Potomac Avenue had been significantly improved, which has resulted in more interesting and varied spaces and a better and more complementary relationship to the form of the Stadium.
48. The Zoning Commission finds that the proposed design and siting creates a project that achieves the desired goals for this important location. The design of the eastern end of the project – including the siting of the East Office Building and the design for Anacostia Place – preserves the view corridors for visitors to the Stadium, complements the initially-proposed designs for the adjacent Diamond Teague Park, creates a welcoming civic space, and links the Stadium to the waterfront experience. The East Office Building provides the introduction of a dynamic and unique waterfront and retail/entertainment experience, which will be further enhanced as later phases of the project are developed.

Legacy of Half Street

49. The Zoning Commission noted that the continued recognition in the site plan of the legacy of Half Street through the project to the River was no longer necessary.
50. The Final PUD Application deletes the perceived extension of Half Street, by rotating the façade of the Residential Building so that a centerline axis through the tower is generally perpendicular to Potomac Avenue rather than following the alignment of the former Half Street right-of-way. This design element opens up a view corridor to and from the Stadium and the River between the Residential Building and the West Office Building.
51. The Zoning Commission finds that the site plan of the project as set forth in the Final PUD Application is appropriate for the PUD Site and creates important view corridors and more interesting facades.

Mix of Uses

52. While the Zoning Commission agreed that a density of 4.4 FAR was appropriate for the PUD Site, the Commission noted that it would prefer for the mix of uses to include an increased amount of gross floor area for apartment units.
53. The Final PUD Application incorporates a significant increase in gross floor area devoted to residential uses by increasing the height of both the Residential Building and the Hotel

Building to 130 feet. The entirety of the additional gross floor area resulting from the increased height is devoted to gross floor area for apartment units (either for rent or sale). As a result, the project includes approximately 323,433 square feet of gross floor area devoted to apartment units. The overall FAR of residential use – including the gross floor area devoted to apartment units and the hotel use deemed residential for the PUD Site – is 2.25 FAR, or more than 50% of the proposed gross floor area of the project as a whole.

54. The Zoning Commission finds that the mix of uses – including the increased residential use and the commitment to a minimum of 80,000 square feet of retail – will create day and night traffic and lend a vibrancy to the project and the area south of the Stadium. The Commission further finds that the use of increased height to achieve the additional residential use is appropriate and adds aesthetic interest to the roof line of the project.

Creation of Civic Spaces

55. The Commission noted concerns relating to the types of civic spaces for the project, indicating a desire for civic spaces to be more influential in the project.
56. The Final PUD Application incorporates significant and well-proportioned open, civic spaces. The increased availability for open, civic spaces is a result of the increased height for both the Residential Building and the Hotel Building. In addition to the Esplanade, the two primary open, civic spaces include Anacostia Place and the Cascade Plaza, which will both attract the public and bring vibrancy and activity to the project.
57. Additionally, the project incorporates two enclosed, publicly-accessible covered spaces. The Potomac Quay is an unique civic space within the project that provides all-weather excitement while the Capitol Quay incorporates an interesting link between the project and waterfront and the South Capitol Street Oval.
58. OP noted in its report that the project incorporates a variety of open spaces – both visually open, but physically enclosed spaces, such as the Potomac Quay and the Capitol Quay, as well as the full-open spaces, including the waterfront esplanade, with segregated walking and biking trails, green space and space for outdoor patios associated with adjacent retail uses, the Cascade Plaza and the Anacostia Place.
59. The Commission finds that creation of a variety of civic spaces is a superior aspect of the project.

Sense of Place

60. The Commission noted that the project as previously conceived lacked a sense of place.

61. In the Final PUD Application, the Applicant presents a project that defines itself through its unique location and position in the near Southeast. Specifically, a sense of place is achieved through the creation of new public spaces, including Anacostia Place, the Cascade Plaza and the Potomac Quay, as well as through the enhancement to previously proposed public spaces, such as the Esplanade. The public spaces serve not only to enhance the project, but to also complement adjacent public spaces – such as the adjacent Diamond Teague Park.
62. In addition, the project's more fully developed and conceived retail vision creates a sense of place for the project. The Applicant set forth a detailed retail merchandising plan, prepared by StreetSense and found in the Revised PUD Submission in the record at Exhibit 67. This retail vision for the project enlivens the Anacostia Riverfront on days when the Stadium is not active with a mix of visible and accessible retail, restaurant, entertainment and other activity-generating uses. A substantial residential presence also helps to create a sense of place for the project.
63. The project also creates a sense of place by its complementary design to the adjacent Stadium. The project provides a high degree of visual and physical transparency between the Stadium neighborhood to the north and the Anacostia River to the south, including wide use of non-reflective glass, curved and carefully oriented building forms, and inviting pedestrian links including the open civic spaces, the through-building connections to the river, and the Esplanade.
64. The Zoning Commission finds that the project achieves the goal of creating a sense of place through a variety of elements, including its civic spaces, its retail vision, its enhanced residential component, its architectural treatment and its festive waterfront experience.

Elimination of Viewing Pier

65. The Zoning Commission commented that a proposed project amenity viewing pier extending into the Anacostia River was not a necessary or contributing element to the project.
66. In the Final PUD Application, the Applicant eliminates the viewing pier. The proposed funds previously allocated to the view pier amenity are instead incorporated into a proposed contribution to the District for application to Diamond Teague Park.
67. The Zoning Commission finds that the elimination of this amenity and the use of the funds are part of a contribution to support the Diamond Teague Park satisfies its noted concern.

Phasing of Project

68. The project is proposed to be constructed in four phases, as shown on the phasing plans included in the record as Exhibit 82:
- a. Phase One includes the East Office Building, the Anacostia Place, and the adjacent portion of the Esplanade.
 - b. Phase Two includes the construction of the Residential Building, the Potomac Quay and the adjacent portion of the Esplanade.
 - c. Phase Three includes the construction of the West Office Building, the Cascade Plaza and the remainder of the Esplanade.
 - d. Phase Four includes construction of the Hotel Building and the Capital Quay.
69. The Applicant must file for a building permit for Phase One of the project as specified in 11 DCMR § 2409.1. Construction of Phase One must begin within three years of the effective date of this order. Within two years of the issuance of a certificate of occupancy for Phase One, the Applicant must file an application for a building permit for Phase Two, and construction of Phase Two must begin within three years of the issuance of a certificate of occupancy for Phase One.
70. Construction of Phases Three and Four can not commence until the final realignment of the Bridge is completed and the land exchange with the District is completed for the South Capitol Street Oval. Therefore, any timeframe for the construction of these two phases must be tied to these two District transportation projects. Based on preliminary estimate dates for the construction of these District transportation projects, construction of Phase Three is estimated to commence in 2013 and construction of Phase Four is estimated to commence in 2016.
71. The Zoning Commission finds that the phasing of the project is appropriate and the timing for construction of the project in these phases is appropriate, as set forth in Condition 15.

Public Benefits and Project Amenities

72. The project incorporates the following public benefits and project amenities:
- a. ***Housing and Affordable Housing (§ 2403.9(f))***. The Applicant commits to the construction of 323,433 square feet of gross floor area devoted to apartment units. The Applicant agrees to reserve approximately 29,000 square feet of gross floor area of the residential development for workforce housing, which shall mean

housing available to families making a maximum of eighty percent of Area Median Income within the District of Columbia. The workforce housing shall be implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits in the record at Exhibit 94. The Zoning Commission finds that the provision of housing as well as the set aside of a portion of the Residential Building for housing for workforce housing under the program proposed by the Applicant are valuable community benefits of the PUD.

- b. Landscaping or Creation or Preservation of Open Spaces (§ 2403.9(a)).* The project incorporates an extensive Esplanade which extends for approximately 719 linear feet along the Anacostia River, being no less than seventy-five feet in depth, with limited projections above and into the air space of the Esplanade by the Residential and Hotel Buildings. The Esplanade can be accessed by pedestrians from Anacostia Place, the Potomac Quay, the Cascade Plaza, and the Capitol Quay and enables the creation of a unique waterfront experience. Furthermore, the design of the Esplanade incorporates biofiltration elements that further the environmental benefits discussed below.

The Zoning Commission finds that the enhanced Esplanade meets and surpasses the standards for the waterfront areas contemplated in the Capitol Gateway Overlay. The Commission also finds that the proposed open civic spaces – including Anacostia Place, the Cascade Plaza and the Potomac Quay – are important aspects of the project, which together with the Esplanade, warrant treatment as a recognized public benefit of the PUD

The Applicant agrees to contribute a total of \$800,000 to the District for construction and on-going maintenance of the Diamond Teague Park. The Zoning Commission finds that this contribution of funds is appropriate and sufficient to warrant treatment as a recognized public benefit of the PUD.

- c. Environmental Benefits (§ 2403.9(h)).* The Applicant commits to develop a sustainable design for the project, including a biofiltration plan to manage stormwater run-off for the project. The Applicant also agrees to develop the project with the goal of achieving at least U.S. Green Building Council LEED certification for each phase of the project.

The Applicant agrees that, if it is unable to achieve certification prior to a certificate of occupancy for each phase of the project, the Applicant will post a bond, letter of credit, escrow account, or other similar security ("Security") prior to the issuance of a certificate of occupancy, in an amount equal to 1% of the construction cost for that phase of the project, such construction cost amount being that identified on the building permit application. When the applicable

phase of the project achieves LEED certification, the Security will be released to the Applicant. In the event that the Applicant does not achieve LEED certification for that phase of the project at the later of 30 months after the date of a certificate of occupancy for that phase or the date that the US Green Building Council determines the building will not obtain certification for that phase, the Security will be released to the District, in accordance with then applicable laws of the District.

The Zoning Commission finds that the LEED program proposed by the Applicant and the proposed mechanism for enforcement deserves recognition as a public benefit of the PUD.

- d. ***Transportation Management Measures (§ 2403.9(c)).*** The Applicant agrees to implement a Transportation Management Program, the purpose of which is to provide services and incentives to increase the efficiency of the roadway network without adding additional capacity. The elements of the Transportation Management Program include a transportation coordinator, coordination of carpools and vanpools, encouragement of flexible work hours, and parking management.

The project also includes a below-grade loading dock which permits a majority of loading activities to take place on-site and not visible from Potomac Avenue, S.E. To manage the loading area, the Transportation Management Program includes a loading dock management plan.

The details of these plans are set forth in Tab 3 to the Summary of Amenities and Benefits in the record at Exhibit 94.

The Commission finds these amenities acceptable to be included as part of the balancing test required in Section 2403.8 of the Zoning Regulations and that these amenities deserve recognition as a public benefit of the PUD.

- e. ***Employment and Training Opportunities (§ 2403.9(e)).*** The Applicant has entered into a First Source Employment Agreement with the Department of Employment Services (DOES). Under this Agreement, the Applicant is required to use DOES as its first source to fill all new jobs created as a result of construction of the project. In addition, the Applicant will seek to have at least fifty-one percent of these newly created jobs filled by District residents and at least fifty-one percent of the apprentices and trainees positions being filled by District residents. The Applicant also renews its offering of a supplemental program related to job opportunities that was first presented and incorporated into

the originally-approved PUD. This amenity will be implemented throughout each phase of the project.

The Applicant commits to make a bona fide effort to utilize Local, Small or Disadvantaged Business Enterprises ("LSDBE") certified by the D.C. Local Business Opportunity Commission ("LBOC") in order to achieve, at a minimum, the goal of thirty-five percent participation in the contracted development costs in connection with design, development, construction, maintenance and security of the project. This amenity will be implemented throughout each phase of the project.

The Commission finds that these amenities are acceptable to be included as part of the balancing test required in Section 2403.8 of the Zoning Regulations and deserve recognition as a public benefit of the PUD.

Development Flexibility and Incentives

73. The Applicant requests the following areas of flexibility from the C-3-C PUD standard and the Design Guidelines:

- a. ***Height Established by Design Guidelines.*** The Design Guidelines state that the maximum height of the buildings in the project are to be no more than 90 feet, 100 feet, and 110 feet. In order to provide more attractive retail space, the Applicant requests an increase by two feet from these maximum heights of building for the East Office Building and the West Office Building to provide for 14 foot ceiling heights for the retail spaces on the ground floor level. The resulting maximum heights of these buildings are 92 feet and 112 feet, respectively. The Applicant also requests increases in height for the Residential Building and the Hotel Building from 100 feet and 110 feet respectively to 130 feet. This increased height permits additional gross floor area for apartment units to be incorporated into the project and increases the open space provided on-site, as well as additional ceiling heights for the retail spaces. This maximum height is permitted for a PUD in the C-3-C District.

The Commission finds that the increased height is warranted in order to achieve the important goals of additional residential use in the project and increased open civic space.

- b. ***Loading:*** Due to the multiple uses on site, loading is required as follows: two loading berths at fifty-five feet, fourteen loading berths at thirty feet, and eight service-delivery spaces. The project provides two loading berths at fifty-five feet, twelve loading berths at thirty feet, and eight service-delivery spaces. The

loading as proposed is more than sufficient for the proposed project and mix of uses. The loading is primarily located within a below-grade loading facility for which a loading management plan of the Transportation Management Program has been proffered.

The Commission finds that additional loading is not necessary for the successful operation of the project.

- c. ***Seventy-Five Foot Setback.*** The Design Guidelines require a minimum setback of seventy-five feet. While the project complies with this requirement at the ground level, the Residential Building and the Hotel Building include projections of twenty-five feet at the second floor level and above. These projections maintain a minimum setback of fifty feet.

The Commission finds that the projections into the setback result in a varied and interesting façade at the upper levels of the affected buildings, and thus appropriate for the project.

Compliance with PUD Standards

74. The Final PUD Application complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations.
75. The Zoning Commission finds that the project offers an exceedingly high level of public benefits and project amenities, as described in Finding 72, and the project requests a relatively small amount of development incentives and flexibility, as described in Finding 73. Thus, the Final PUD Application satisfies the balancing test required in Section 2403.8 of the Zoning Regulations.
76. The PUD Site area is approximately 253,500 square feet in land area, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the C-3-C District, in accordance with Section 2401.1(c) of the Zoning Regulations.
77. The project has been evaluated under the PUD guidelines for the C-3-C District. The project is in compliance with the height and FAR permitted for a PUD in the C-3-C District. The project does not propose to take advantage of the greater FAR permitted under C-3-C zoning, as it follows the requirements of the Design Guidelines.
78. The project has been evaluated under the Design Guidelines and is generally in compliance with those standards, with the exceptions noted above.
79. The project will have no adverse impact on the surrounding area. Furthermore, the District's existing water and sewer services are adequate to serve this facility

80. The project will provide additional economic boost to both southeast Washington and the District of Columbia, as indicated in the Economic Impact Analysis attached as Tab F to the Applicant's September 2007 PUD Submission in the record at Exhibit 67.
81. By virtue of the Zoning Commission's extension of the First-Stage PUD approval in Zoning Commission Order No. 910-B, the Commission implicitly found that the first-stage approval, as modified by the Design Guidelines, was not inconsistent with the Comprehensive Plan in effect at that time. The Zoning Commission reaffirms that conclusion.
82. The Applicant presented expert testimony regarding compliance with the Comprehensive Plan of 2006. In both oral and written testimony to the Commission, the Applicant's witness testified that project was not inconsistent with or furthered the District-wide elements of the Comprehensive Plan as well as the specific element focused on the Lower Anacostia Waterfront/Near Southwest Area. Based on this testimony and the testimony and report of OP, described in Finding 85, the Zoning Commission finds that the project advances the purposes of the Comprehensive Plan of 2006, is consistent with the Future Land Use Map adopted as part of the Comprehensive Plan of 2006, and furthers and complies with the major themes and elements for the District and the Lower Anacostia Waterfront/New Southwest Area element in the Comprehensive Plan of 2006. Accordingly, the Zoning Commission finds that the project is not inconsistent with the Comprehensive Plan.

Office of Planning

83. By report dated March 10, 2008, and through testimony presented at the public hearing, OP recommended approval of the Final PUD Application subject to the following four conditions:
 - a. Concurrence of the DMPED regarding the proposal to contribute \$800,000, as part of the amenity package towards the construction of Diamond Teague Park;
 - b. Additional detail regarding the LSDBE commitment and supplemental employment and skills training plan;
 - c. DDOT approval of the proffered Traffic Management Plan; and
 - d. Further review of the fountain design in Anacostia Place.
84. OP, in its testimony to the Zoning Commission, noted that the first three conditions were resolved by the materials submitted by the Applicant in its Summary of Amenities and Benefits, in the record at Exhibit 94. These materials specifically included the following:

- a. The letter from the DMPED, attached as Tab 2 to the Summary of Amenities and Benefits, which indicated the DMPED's willingness to accept a contribution for Diamond Teague Park.
 - b. The executed First Source Employment Agreement with the Department of Employment Services including information regarding the supplemental employment and skills program, attached as Tab 4 to the Summary of Amenities and Benefits and the executed agreement for utilization of LSDBEs, attached as Tab 5 to the Summary of Amenities and Benefits.
 - c. The detailed Transportation Management Program, including a truck management plan, attached as Tab 3 to the Summary of Amenities and Benefits.
85. OP, in its report and through testimony to the Zoning Commission, concluded that the project is not inconsistent with, or would further, the Comprehensive Plan of 2006. Specifically, the project is not inconsistent with the objectives and action items within the District-wide elements of the Comprehensive Plan of 2006, particularly ones related to the provision of more housing, retail and job opportunities, better connectivity to the waterfront, and the provision of new open space. The project also furthers the objectives and action items contained within the Lower Anacostia Waterfront/Near Southeast Area element (Chapter 19).
86. The Zoning Commission finds that each of the issues set forth in Finding 83(a) through 83(c) have been resolved by the submission of the Summary of Amenities and Benefits, in the record at Exhibit 94, as indicated by the testimony of OP.
87. The Zoning Commission finds that, while OP raised questions and issues related to the fountain design in Anacostia Place, as set forth in Finding 83(d), the Commission finds the fountain design to be an exciting, original and appropriate piece of art to anchor this open, civic space.

District Department of Transportation

88. The Zoning Commission notes that DDOT did not submit a report in support of or objecting to the Final PUD Application.
89. DDOT submitted reports for earlier proceedings in this matter. In its initial report dated September 14, 2006, ("DDOT Report") in the record at Exhibit 38, and through its testimony at the September 18, 2006, public hearing, DDOT recommended approval of the Modified Revised Applications, conditioned on the resolution of issues relating to vehicular site access, bike and pedestrian connections along the Esplanade, its water taxi dock proposal and coordination with adjacent infrastructure projects. In response to discussions with the Applicant, DDOT submitted a DDOT Supplemental Report, dated

November 27, 2006, and in the record at Exhibit 52, in which DDOT concluded that the Applicant had successfully addressed DDOT's concerns.

90. The Zoning Commission finds that DDOT did not submit a report for the March 20, 2008, public hearing on the Final PUD Application and that DDOT's position on the record is that the project is satisfactory to DDOT.

ANC 6D Report and Testimony

91. By letter dated March 17, 2008, ANC 6D indicated that it voted 5-2 at its January 14, 2008, duly noticed public meeting, to support the Final PUD Application. This letter is found in the record at Exhibit 90.
92. In its letter, ANC 6D stated that it once again affirmed its support for the application. ANC 6D noted that it is pleased with the new design and layout of the project. ANC 6D stated that the new project is a high quality, thoughtful development that will provide a lively destination for Washingtonians, and will be an asset to the Southwest/Near Southeast community.
93. The Zoning Commission afforded the views of the ANC 6D the "great weight" to which they are entitled.

Letters and Testimony in Support and Opposition

94. No person or party appeared in support or opposition to the project.
95. Many letters of support are in the record. Councilmember Tommy Wells filed a letter in support of the project, in the record at Exhibit 87. Former Councilmember Sharon Ambrose filed a letter in support of the project, in the record at Exhibit 86. The DMPED filed a letter in support of the project, in the record at Exhibit 88.

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 second-stage 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 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 § 2401.1 of the Zoning Regulations.
5. The PUD is within the applicable height, bulk and density standards of the Zoning Regulations. The project complies in all material respects with the Design Guidelines, with the general exception of the additional height. The size, scale, design and use of the project are appropriate for the PUD Site and for the general Stadium district. The impact of the project on the surrounding area is not unacceptable. Accordingly, the Final PUD Application should be approved.
6. The Final PUD Application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
7. The number and quality of the project benefits and amenities offered are a more than sufficient trade-off for the flexibility and development incentives requested.
8. Approval of the Final PUD Application is appropriate because the project is consistent with the proposed future character of the area.
9. Approval of the Final PUD Application is not inconsistent with the Comprehensive Plan.
10. The Commission is required under D.C. Code § 1-309.10(d) (2001) to give great weight to the affected ANCs' recommendations. The Commission has carefully considered ANC 6D's strong support of the project and concurs in its recommendation.
11. The approval of the Final PUD Application will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
12. The rezoning of the PUD Site to C-3-C is consistent with the purposes and objectives of zoning as set forth in the Zoning Enabling Act, Section 6-641.01 of the D.C. Code.

13. Notice was provided in accordance with the Zoning Regulations and applicable case law.
14. The Final PUD Application is subject to compliance with the provisions of the D.C. Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq.).
15. The Zoning Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP's recommendations, as reflected in Findings 83 through 87. For the reasons stated above, the Commission concurs in OP's recommendation for approval and concurs in this recommendation.

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 Final PUD Application for the second-stage review of a Planned Unit Development under the C-3-C District. This approval is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed substantially in accordance with the plans prepared by Davis Buckley Architects and Planners, dated February 28, 2008, in the record at Exhibit 83, as supplemented by the plans dated May 1, 2008, in the record at Exhibit ____ (collectively the "Plans") as modified by the guidelines, conditions and standards herein.
2. The PUD shall be a mixed-use project, containing a maximum of 1,115,400 square feet of gross floor area, or 4.4 FAR. The PUD shall include at least 569,623 square feet of gross floor area devoted to residential and hotel uses, or 2.25 FAR. The PUD shall include a maximum of 545,777 square feet of gross floor area, or 2.15 FAR, devoted to commercial uses, including office and retail and service uses. A minimum of 80,000 square feet of gross floor area shall be devoted to retail and service uses.
3. The East Office Building shall have a maximum height of 92 feet. The Residential Building shall have a maximum height of 130 feet. The West Office Building shall have a maximum height of 112 feet. The Hotel Building shall have maximum height of 130 feet.
4. The Applicant shall construct and landscape the open spaces, including the Esplanade, the Cascade Plaza and the Anacostia Place, generally as shown on the Plans.
5. The project shall include a minimum of 1,010 parking spaces in the below-grade parking garage.

6. The project shall provide loading as shown on the Plans. Use of the loading facilities shall be subject to the Truck Management Program set forth in Tab 3 to the Summary of Amenities and Benefits, found in the record at Exhibit 94.
7. The Applicant shall implement a Transportation Management Plan that shall specifically integrate strategies to reduce single occupant vehicular trips and promote alternative modes of travel. The Transportation Management Program shall be as set forth in Tab 3 to the Summary of Amenities and Benefits, found in the record at Exhibit 94.
8. The Applicant shall contribute a total of \$800,000 to the District for construction and on-going maintenance of the adjacent Diamond Teague Park. The first \$500,000 of this contribution shall be made to the District at the earlier of (a) the issuance of a building permit for Phase 1 of the project, or (b) a request received from DMPED for reimbursement of construction costs incurred by DMPED in connection with the construction and installation of Diamond Teague Park. The remaining \$300,000 of this contributions shall be made to the District prior to issuance of the building permit for Phase 1 of the project with the intent that such money be set aside for maintenance of the constructed Diamond Teague Park.
9. The Applicant shall reserve a minimum of 29,000 square feet of gross floor area in the Residential Building to be devoted to workforce housing, as set forth in Finding 72(a). Such workforce housing shall be implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits in the record at Exhibit 94.
10. The project shall obtain LEED certification for each phase of the project. In the event that the Applicant is unable to achieve LEED certification prior to the issuance of a certificate of occupancy for each phase of the project, the Applicant shall post a bond, letter of credit, escrow account, or other similar security ("Security") prior to the issuance of a certificate of occupancy for that phase, in an amount equal to 1% of the construction cost for that phase of the project shown on the building permit application. When the applicable phase of the project achieves LEED certification, the Security shall be released to the Applicant. In the event that the Applicant does not achieve LEED certification for that phase of the project at the later of 30 months after the date of a certificate of occupancy for that phase or the date that the US Green Building Council determines the building will not obtain certification for that phase, the Security shall be released to the District, in accordance with then applicable laws of the District.
11. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission, attached as Tab 5 to the Summary of Amenities and Benefits in the record at Exhibit 94 in order to achieve the target 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.

12. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services, attached as Tab 4 to the Summary of Amenities and Benefits in the record at Exhibit 94, in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the new jobs created by the PUD project. The Applicant shall also abide by the Employment and Skills Training Plan made part of that agreement, also attached as Tab 4 to the Summary of Amenities and Benefits in the record at Exhibit 94.
13. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, without a reduction in quality, based on availability at the time of construction;
 - c. To vary the location of storefront entrances to the retail spaces as determined by leasing considerations and needs of individual tenants;
 - d. To vary the landscaping and bike paths of the Esplanade to coordinate with development of adjacent parcels;
 - e. To refine the sculptural centerpiece of Anacostia Place and make adjustments to its size and design so long as it maintains the same general character as shown in the Plans;
 - f. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - g. To make refinements to the garage configuration, including layout, number of parking spaces and/or other elements, as long as the project includes a minimum of 1,010 parking spaces; and

- h. To incorporate such items of final engineering design into the final design of the streetscape, such as, but not limited to, code and/or utility required sidewalk gratings, and access manholes and other similar cover plates for utility meters.
- 14. No building permit shall be issued for this PUD until the Applicant has recorded a notice of modification in the land records of the District of Columbia, between the owner of the PUD Site and the District of Columbia.
- 15. The 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, an application must be filed for a building permit for Phase One as specified in 11 DCMR § 2409.1. Construction of Phase One shall begin within three years of the effective date of this order. Within two years of the issuance of a certificate of occupancy for Phase One, an application must be filed for a building permit for Phase Two, and construction of Phase Two shall begin within three years of the issuance of a certificate of occupancy for Phase One. An application for a building permit for Phase Three shall be filed within one year after the later of the completion of the Bridge construction or the completion of the construction of the South Capitol Street Oval. Construction of Phase Three must begin within one year of the issuance of a building permit for Phase Three. Within two years of the issuance of a certificate of occupancy for Phase Three, an application must be filed for a building permit for Phase Four, and construction of Phase Four shall begin within three years of the issuance of a certificate of occupancy for Phase Three.
- 16. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On March 20, 2008, the Zoning Commission APPROVED the Application by a vote of: 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Curtis J. Etherly, Jr. and Michael G. Turnbull to approve, Peter May, abstaining).

APPLICANT'S PROPOSED Z.C. ORDER
CASE NO. 04-14
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This Order was ADOPTED by the Zoning Commission at its public meeting on May 22, 2008,
by a vote of: _____ (_____).

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 _____.

ANTHONY J. HOOD
Chairman, Zoning Commission

JERRILY R. KRESS, FAIA
Director, Office of Zoning

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