

Holland & Knight

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202 955 3000 | F 202 955 5564
Holland & Knight LLP | www.hklaw.com

David W. Briggs
202 828 5001
David.briggs@hklaw.com

Christine Moseley Shiker
202 457 7167
christine.shiker@hklaw.com

September 25, 2009

VIA HAND DELIVERY

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

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**Re: Request for Extension of Time, Zoning Commission Order No. 04-14
(Second-Stage PUD and Related Zoning Map Amendment)
100 Block of Potomac Avenue, SE**

Dear Members of the Zoning Commission:

On behalf of Florida Rock Properties, Inc., the Applicant in the above-referenced case, this letter serves as a request for a two-year extension of the second-stage planned unit development ("Second-Stage PUD") approved in Zoning Commission Order No. 04-14 ("Order No. 04-14"), such that an application must be filed for a building permit for the Second-Stage PUD no later than June 27, 2012, and construction must start no later than June 27, 2013. A copy of Order No. 04-14 is attached as Exhibit 1.

This request is filed pursuant to Section 2408.10 of the Zoning Regulations for good cause shown herein. A completed application for the extension is submitted herewith, and a check in the amount of \$400.00 made payable to the D.C. Treasurer for the requisite filing fee pursuant to Section 3040.5 of the Zoning Regulations is also enclosed. The Applicant respectfully requests that the Zoning Commission consider this request at its November 9, 2009, public meeting.

I. INTRODUCTION

A. Factual Background

By Order No. 04-14, the Zoning Commission approved the Second-Stage PUD for the property located in the 100 block of Potomac Avenue, SE (now known as Lots 810, 811 and 812 in Square 708) (the "Property") and a related application to amend the Zoning Map to C-3-C for the Property. The Property consists of approximately 253,500 square feet of land area and is bounded by Potomac Avenue, SE along its northwestern edge, a portion of the former right-of-way of First Street, SE to the east, the Anacostia River to the southeast and south, and the Frederick Douglass Memorial Bridge (the "Bridge") and the Bridge's approaches to the west and

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District of Columbia

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District of Columbia
CASE NO. 04-14A
EXHIBIT NO. 1

EXHIBIT NO. 1

southwest. The Property is immediately to the south of the Washington Nationals' Baseball Stadium (the "Stadium").

The approved Second-Stage PUD includes development of a mixed-use project of office, retail, residential and hotel uses, having multiple vistas and views to and from the Anacostia River and the Stadium (the "Project"). The east end of the Property will be developed with an office building with ground floor retail, anchored by a two-story retail corner (the "East Office Building"). The East Office Building will have a maximum height of 92 feet. Adjacent to and west of the East Office Building is an apartment building with ground floor retail (the "Residential Building"). The Residential Building will have a maximum height of 130 feet. The East Office Building and the Residential Building will be linked together by the Potomac Quay, a glass-enclosed retail galleria extending from Potomac Avenue to the waterfront. A second office building with ground floor retail will turn the corner at the intersection of Potomac Avenue, SE and South Capitol Street (the "West Office Building"). The West Office Building will have a maximum height of 112 feet. To the south of the West Office Building and connected by the glass-enclosed Capitol Quay, a hotel will be constructed (the "Hotel Building"). The Hotel Building, with a maximum height of 130 feet, will have hotel-related retail uses on the ground floor and residential uses located on the top two floors. The Project includes a total of 1,115,400 square feet of gross floor area, including 569,623 square feet devoted to residential and hotels uses and 545,777 square feet devoted to commercial uses, including a minimum of 80,000 square feet of gross floor area devoted to retail use.

In creating the Project, the Applicant worked very closely with the District of Columbia – including the Office of Planning, the District Department of Transportation, and the community – to create a project that would enhance the river front, compliment the Stadium and provide for pedestrian activity and excitement. The result is a project that includes multiple public open and civic spaces and serves as a link for the Stadium and development to the north to the Anacostia River to the south.

The Zoning Commission approved the Project and issued an order, which became effective upon publication in the *D.C. Register* on June 27, 2008. Based on this order, the Applicant is required to file for a building permit for Phase I of the Project, which includes the East Office Building and adjacent Anacostia Place ("Phase I"), no later than June 27, 2010. Construction of Phase I must begin no later than June 27, 2011. As is discussed in more detail below, the Applicant is requesting a two-year time extension based upon unexpected delays beyond the Applicant's control.

B. Jurisdiction of the Zoning Commission

Section 2408.10 of the Zoning Regulations authorizes the Zoning Commission to extend the time periods set forth in Section 2408.8 (two year requirement to file for a building permit) and Section 2408.9 (three year requirement to begin construction), provided the following conditions are met:

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission's justification for approving the original PUD; and
- (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in §2408.11.

The sole substantive criterion for determining whether a PUD should be extended is whether there exists "good cause shown." The Zoning Regulations define "good cause shown" in §2408.11, as evidence of one or more of the following:

- (a) An inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;
- (b) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or
- (c) The existence of pending litigation or such other condition or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.

II. THE EXTENSION REQUEST WAS SERVED ON ALL PARTIES

The only party to this case was Advisory Neighborhood Commission 6D ("ANC 6D"). As indicated on the Proof of Service attached hereto, the Applicant has served this request for extension of time on ANC 6D, allowing it the required time period to respond.

III. THE APPLICANT DEMONSTRATES GOOD CAUSE FOR EXTENSION OF THE PUD VALIDITY

A. The Project Has Experienced Delay Beyond Applicant's Control

Section 2408.11(a) supports the grant of an extension of PUD validity for projects confronting difficulties with financing based upon changes in economic and market conditions beyond an applicant's control. As the Commission has recognized in recent months, the real estate market has been subject to, and continues to suffer from, major financing, sales and leasing impediments as a result of the severe economic crisis. The present condition of the real estate market has rendered it impossible for the Applicant to secure sufficient financing to commence development of Phase I of the Project, despite the Applicant's good faith efforts.

Specifically, the Applicant's intent was to move forward with Phase I of the Project as quickly as possible after approval. The Applicant took numerous steps immediately following the PUD approval in June, 2008, to achieve that goal, including the following:

- Preparing an ALTA Survey and processing with the D.C. Office of the Surveyor a subdivision of the Property into a single lot of record in a single square (Lot 14, Square 708).
- Creating on the single lot of record Assessment and Taxation Lot Numbers to correspond to the approved phasing for the Project.
- Contributing \$800,000 to the District of Columbia for the construction, installation, and/or on-going maintenance of the adjacent Diamond Teague Park. This payment was made in coordination with the Deputy Mayor for Planning and Economic Development in November 2008, in accordance with Condition No. 8 of Order No. 04-14. A copy of the letter dated November 26, 2008, from the Deputy Mayor for Planning and Economic Development, confirming receipt of these funds is attached Exhibit 2.
- Recording the required PUD Covenant in the Land Records for the District of Columbia on September 4, 2008, as required by Condition No. 14 of Order No. 04-14 and Section 2409.3 of the Zoning Regulations.
- Continuing participation in public meetings for the South Capitol Street Improvement Project regarding the future improvements to South Capitol Street and the relocation of the Bridge.
- Working with the District Department of Transportation to effect the land exchange required to accommodate the new Bridge re-alignment and roadway expansion to enable future phases of construction of the Project (i.e., Phases III and IV).
- Advancing the approved designs for Phase I and Phase II of the Project with the preparation of architectural schematic drawings for those phases as a precursor to preparation of drawings for building permitting purposes.
- Undertaking on-going marketing of the Project and monitoring market conditions in Southeast D.C.

In addition to diligently pursuing the planning and legal due diligence required to develop Phase I of the Project, the Applicant sought development expertise in the form of an equity partner for Phase I and Phase II of the Project. To locate a qualified development partner, the Applicant conducted an intensive selection process and then retained the commercial real estate firm of Jones Lang LaSalle to solicit development expertise and equity commitments from major developers in the Metropolitan Washington D.C. market, as is further described in the letter from Jones Lang LaSalle attached at Exhibit 3. The Applicant sought candidates willing to commit to the funding of design, construction and delivery of Phase I of the Project within the timeframe set forth in Order

No. 04-14. Twenty-four qualified candidates were approached in this search. Nine of the candidates requested the formal Request for Proposal. Due to current market conditions, none of the candidates was willing to commit to a schedule for development of Phase I that would move Phase I of the Project forward within the two year approval period of the PUD, nor would any commit to provide equity funding for development of Phase I. These decisions stemmed from the fact that all interested parties felt that current market conditions in general and those specifically in Southeast D.C. and in particular the Capital River Front submarket were so bleak that at this time developing a pro forma for an economically feasible project was not possible.

This inability to secure equity funding and a scheduling commitment for Phase I along with the current economic climate has also precluded the Applicant from being able to secure debt financing for the design, construction and delivery of Phase I. Specifically, on behalf of the Applicant, Jones Lang LaSalle's Real Estate Investment Banking group ("JLL-REIB") contacted several area lenders regarding the project. Without evidence of equity funding commitments and no pre-leasing, no lender contacted by JLL-REIB would agree to provide loan terms to the Applicant for Phase I of the Project. JLL-REIB's Financing Opinion Letter, attached as Exhibit 4, provides general information regarding current market conditions with regard to financing of projects, such as Phase I of the Project, and provides an opinion as to the availability of construction financing for Phase I of the Project. Specifically, of the four lenders with which JLL REIB discussed the Project and the availability of construction financing, none of the lenders was prepared to provide construction financing for Phase I of the Project.

In summary, due to conditions beyond the Applicant's control, the Applicant is not able to secure project financing to proceed with Phase I of the Project within the approved period of Order No. 04-14, despite the Applicant's diligent, good faith efforts, due to the current deteriorated market conditions and instability in the capital markets, substantial vacancy in the Capital Riverfront submarket, the unwillingness of equity funding to commit to support development activity within the PUD approval period, and the lack of availability of construction financing for development without substantial pre-leasing. Thus, this request for extension of the PUD approval satisfies the criterion for good cause shown as set forth in Section 2408.11(a) of the Zoning Regulations.

B. No Substantial Changes to Approved PUD

In addition to requiring the demonstration of "good cause," Section 2408.10 of the Zoning Regulations requires the following:

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the Commission's justification for approving the original PUD ...

The extension is requested in order to enable the Applicant to continue its diligent efforts to secure traditional or alternative financing for development of Phase I of the project as approved by the Zoning Commission. The approved project has not changed, and there has been no change in any of the material facts upon which the Zoning Commission based its approval of the Second-Stage PUD. The Applicant remains committed to moving forward with the project,

looking to fully comply with the conditions and obligations imposed as part of the Second-Stage PUD approval. This commitment has been evidenced by the many steps that the Applicant has taken in the development process, including fulfillment of a major amenity of the project (i.e., payment of the \$800,000 to the District).

C. No Hearing is Necessary

Section 2408.12 of the Zoning Regulations provides:

The Zoning Commission shall hold a public hearing on a request for an extension of the validity of a planned unit development only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the planned unit development concerning any of the criteria set forth in §2408.11. The hearing shall be limited to the specific and relevant evidentiary issues in dispute.

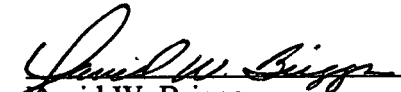
A hearing is not necessary for this request since there are not any material factual conflicts generated concerning any of the criteria set forth in Section 2408.11. There is no dispute that: (1) the Applicant has been unable to secure traditional or alternative financing for the project, or (2) there are significant impediments in the market place to proceeding with Phase I of the project at this time. Thus, there cannot be any material factual conflicts generated concerning any of the criteria by which the Zoning Commission is required to consider this request.

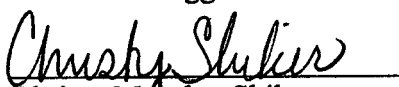
IV. CONCLUSION

In light of this demonstration of good cause and for the reasons stated herein, the Applicant respectfully requests that the Commission approve a two-year extension of the approved Second-Stage PUD, such that an application must be filed for a building permit no later than June 27, 2012 and construction must start no later than June 27, 2013. No hearing is necessary as there are no material factual issues in question.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
David W. Briggs

By: 
Christy Moseley Shiker

Attachments

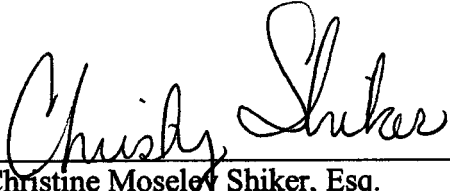
cc: Jennifer Steingasser, Office of Planning (Via Hand Delivery; w/atts)
Joel Lawson, Office of Planning (Via Hand Delivery; w/atts)

PROOF OF SERVICE

I hereby certify that on September 25, 2009, a copy of the foregoing Applicant's Request for Extension of Time was served on the following organization as stated below:

Advisory Neighborhood Commission 6D
1501 Half Street SW, 2nd Floor
Washington, DC 20024

Via Hand Delivery



Christine Moseley Shiker, Esq.
Holland & Knight

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-14

Z.C. Case No. 04-14

Second-Stage Planned Unit Development and Related Zoning Map Amendment for
Florida Rock Properties, Inc. – 100 Potomac Avenue, S.E.
May 22, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on March 20, 2008, to consider applications from Florida Rock Properties, Inc. (“Applicant”) for second-stage approval of a planned unit development (“PUD”) and a related map amendment to the C-3-C Zone District. 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 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 map amendment to the C-3-C Zone District 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 Commission considered the May 2004 Application for set-down. The Commission identified several matters related to the proposed project on which additional information was needed. On August 26, 2004, the Applicant filed a Supplemental PUD Submission providing this additional information.
- 3 At its September 13, 2004, public meeting, the Commission set the case down for hearing. In anticipation of a 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, the District announced that a new Ballpark would be constructed immediately across Potomac Avenue from the PUD Site. Plans were also underway to reconstruct South Capitol Street, including the intersection of South Capitol Street and Potomac Avenue, S E, and to replace and realign the Frederick Douglass Memorial Bridge. In light of various area-wide planning issues, the Applicant agreed to a request by the Anacostia Waterfront Corporation ("AWC") to postpone the scheduled hearing.
5. During an eight-month postponement, the Applicant worked with AWC, the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), and the D.C. Sports and Entertainment Commission to craft modifications to the originally proposed PUD to respond to changes in 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, collectively the "Modified PUD Submissions").
- 6 After proper notice, the 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 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 Applicant made 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 Commission discussed several issues of concern in the Modified Revised Applications and requested that the Applicant submit revised plans to address those concerns.
- 9 By letter dated March 2, 2007, the Applicant requested clarification from the Commission. 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, did not satisfactorily recognize the location and nature of the grand stair of the Ballpark 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. The proposed project lacked the right “civic character” and a greater presence of residential uses, preferably apartment units, would be more appropriate,
 - d. The proposed project lacked a “sense of place” or defining elements, notwithstanding its unique location adjacent to the Ballpark 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 By correspondence dated June 1, 2007, the Applicant submitted a modified site plan for the project that proposed changes in use allocation, density, and building heights responsive to the Commission’s concerns. The Commission commented favorably on the modified plan and requested that the Applicant submit a revised PUD application.
 - 11 On September 21, 2007, the Applicant filed a revised application, which was further supplemented on November 8, 2007. The Commission set the Final PUD Application (collectively, the September 2007, November 2007, and February 2008 submissions) 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.
 - 12 After proper notice, the Commission held a public hearing on the Final PUD Application on March 20, 2008. The parties to the case were the Applicant and ANC 6D.
 13. The Applicant presented three witnesses in its direct presentation, 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.
 - 14 At the conclusion of the hearing, the 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

- 15 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
- 16 The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter NCPC, by delegated action dated April 25, 2008, found that the project would not be inconsistent with the Comprehensive Plan for the National Capital or adversely affect any other federal interests
- 17 The Commission took final action by a vote of 5-0-0 to approve the Final PUD Application at its special public meeting held on May 22, 2008

Procedural History

- 18 In 1998, the Commission reviewed and approved a first-stage PUD application and related zoning map amendment for the PUD Site in Case No. 95-16P, as reflected in Order No 850 In that case, the Commission approved a development plan which included a maximum height of 130 feet with a maximum density of 6.0 floor area ratio ("FAR") to be devoted to commercial and retail uses, and approved a related zoning map amendment for the PUD Site to the C-3-C Zone District
- 19 By Order No 910, dated November 8, 1999, the Commission granted second-stage approval for a PUD, allowing approximately 1.5 million square feet of commercial development in two buildings, with heights of 110 and 130 feet, constructed above a single below-grade, off-street parking facility
- 20 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. In Order No 910-A, dated May 13, 2002, the Commission denied the Applicant's request for a time extension due to a concern that the approved second-stage PUD would be in conflict with planning efforts for the near Southeast and Southwest areas, including Buzzard Point.
- 21 On December 2, 2002, the Applicant filed a motion for reconsideration of the Commission's decision to deny the time extension. 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.

22. At its January 13, 2003 meeting, the Commission voted not to reconsider its 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. The Commission expressed concern about the building height permitted under the proposed design guidelines offered by the Applicant, indicating that lesser heights would be preferable. On February 14, 2003, the Applicant submitted revised design guidelines, which proposed lesser heights of buildings and resulting changes in gross floor area calculations.
23. On February 24, 2003, the Commission voted to grant a time extension of the first-stage approval of the PUD for 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.

PUD Site and Area

24. 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.
25. 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 was designated by the Future Land Use Map in the mixed-use medium-density residential/medium-density commercial category.
26. The PUD Site is not a designated historic landmark nor is it within a historic district.
27. Developments in the immediate vicinity of the PUD Site include the Ballpark, immediately to the north of the PUD Site, and, to the east, a mixed-use project, the Southeast Federal Center, that includes the recently completed Department of Transportation headquarters.

28. DDOT has begun the reconstruction of South Capitol Street, including construction of an oval ("South Capitol Street Oval") at the intersection of South Capitol Street and Potomac Avenue, and relocation of the bridge on a southern alignment at South Capitol Street
29. The boundaries of the PUD Site assume a land exchange with DDOT. Construction of the South Capitol Street Oval requires acquisition of a portion of the PUD Site by the District. DDOT and the Applicant reached a preliminary agreement for a land exchange in the future. (See Tab B to the Applicant's Modified Supplemental Prehearing Submission, Exhibit 31, and DDOT's Supplemental Report, dated November 27, 2006, 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 would not alter the total lot area of the PUD Site.

Existing and Proposed Zoning

30. 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.
31. By Order No. 850, the Commission approved a PUD-related map amendment for the PUD Site to the C-3-C Zone District in connection with the first-stage approval.
32. By Order No. 971, the area surrounding the PUD Site was included within the Capitol Gateway Overlay District, with accompanying rezoning to the underlying base zone. The overlay designated specific areas for mixed-use redevelopment, as identified in the Comprehensive Plan. In addition to restrictions on use, density, and height, many properties included within the Capital Gateway Overlay District were made subject to a development review process. Absent a PUD-related map amendment, the PUD Site would be zoned CG/W-2.
33. The Final PUD Application includes a PUD-related map amendment to C-3-C. The C-3 Zone District is designed to accommodate important sub-centers supplementary to the Central Business District. The C-3-C Zone District permits medium-high density development, including office, retail, housing, and mixed-use development which is compact in area. The C-3-C Zone District permits a maximum height of 90 feet, with no limit on the number of stories, and a maximum density of 6.5 FAR. Under the PUD guidelines for the C-3-C Zone District, the maximum height may be 130 feet and the maximum density may be 8.0 FAR. The Applicant proposed to develop a project within these development parameters, having a maximum density of 4.4 FAR and a maximum height of 130 feet, generally consistent with the Design Guidelines.

The PUD Project

- 34 The Final PUD Application proposed the construction of a mixed-use project of office, retail, residential, and hotel uses on the PUD Site. The project will be developed as four separate buildings situated to create multiple vistas and views to and from the Anacostia River and the Ballpark.
35. 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 will have a maximum height of 92 feet, and will be sited to respect the view corridors from the Ballpark's grand staircase. Adjacent to the East Office Building will be an apartment building with ground-floor retail (the "Residential Building"). The Residential Building will have a maximum height of 130 feet. The East Office Building and the Residential Building will be linked together by the Potomac Quay, a glass-enclosed retail galleria extending from Potomac Avenue to the waterfront. A second office building with ground-floor retail will turn the corner at the intersection of Potomac Avenue, S.E., and South Capitol Street, S.E. (the "West Office Building"). The West Office Building will have a maximum height of 112 feet. To the south of the West Office Building and connected by a glass-enclosed Capitol Quay, a hotel will be constructed (the "Hotel Building"). The Hotel Building, with a maximum height of 130 feet, will have hotel-related retail uses on the ground floor and residential uses located on the top two floors.
- 36 The project will include a total of 1,115,400 square feet of gross floor area, or a maximum of 4.4 FAR. The PUD will include 569,623 square feet of gross floor area devoted to residential and hotel uses, or 2.25 FAR. The PUD will also include 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.
- 37 The project will incorporate two open civic spaces: Anacostia Place at the east end and Cascade Plaza at the western end. Each space will provide direct access to a terraced and landscaped waterfront esplanade (the "Esplanade"), which will extend for the full length of the project's frontage on the Anacostia River.
38. Anacostia Place will provide for the free flow of pedestrians from the Ballpark's grand staircase and from First Street through and to both the Esplanade and to Diamond Teague Park. This space will feature a monumental fountain/sculpture that will celebrate the heritage of the Anacostia River by featuring representations of wildlife, flora and fauna of the river in its original state. The artwork centerpiece will be surrounded by three seasonal sculptural fabric structures serving as potential vendor pavilions and shade structures. The design and plantings for Anacostia Place have 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.

39. The Cascade Plaza will be the center of civic activity on the western portion of the PUD Site, serving as a focal, organizing civic space as well as the entryway to the Residential Building, West Office Building, and Hotel Building. The Cascade Plaza will provide vehicular access for the three buildings, giving them an “address” on the Plaza. The central portion of the space will have a landscaped water sculpture with water pools and plant materials. In addition to the center water oval component, the Cascade Plaza will include a cascading water stair between the two staircases linking the Cascade Plaza to the Esplanade and the river. The cascade water elements as well as the center water oval component will be elements of the overall biofiltration program for the project while providing an aesthetic focal point for the uses that surround the plaza.
40. The project will incorporate a bike path along the waterfront, with special paving, two directional lanes with a divider strip and reflectors, and light bollards to visually define the path where the bike path traverses the pedestrian zones. The bike path will ultimately connect to the trail to the southwest and east of the PUD Site.
41. The design of the project as presented in the Final PUD Application was substantially modified throughout the PUD process as a result of discussions with OP, DDOT, DMPED, and the community. The resulting project responded to the surrounding contextual determinants, including celebrating its waterfront location, being a fitting complement to the Ballpark and providing an important façade for the future South Capitol Street Oval.

East Office Building

42. The 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 Ballpark and the impact on the view corridor from that grand stair to the river. In the Final PUD Application, a curved building line for the East Office Building was introduced along Potomac Avenue and the orientation of the East Office Building was rotated slightly off-line with the Potomac Avenue right-of-way line. These two changes brought the west end of the planned East Office Building closer to the river on its south side. This re-orientation eliminated any vestige of Half Street, and instead recognized the importance of the Potomac Avenue right-of-way.
43. The view corridors created at the Potomac Quay and at the lane leading to the Cascade Plaza to the west of the Residential Building will further eliminate the earlier Half Street viewshed. The re-aligned East Office Building will respond to and emphasize the view corridors and access points through the project when approached from the grand staircase of the Ballpark along Potomac Avenue, as well as from the entrance of the Ballpark at the intersection of Potomac Avenue and South Capitol Street. This orientation, along with the sculptural elements of the designs of the East Office Building and the Residential Building, will create a complementary relationship between the Potomac Avenue façades of the project and the design of the Ballpark.

- 44 In its report, OP noted that the proposed location of the East Office Building was moved to the west to improve views from the south entrance of the Ballpark. OP further noted that the overall form and massing of the buildings along Potomac Avenue were improved, resulting in more interesting and varied spaces and a better relationship to the form of the Ballpark.
45. The Commission finds that the proposed design and siting will create a project that will achieve 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 – will preserve the view corridors for visitors to the Ballpark, complement the designs for Diamond Teague Park, create a welcoming civic space, and link the Ballpark to the waterfront. The East Office Building will introduce a dynamic waterfront and retail/entertainment experience that will be further enhanced as later phases of the project are developed.

Legacy of Half Street

- 46 The continued recognition of the legacy of Half Street through the project to the River was not necessary. The Final PUD Application deleted the perceived extension of Half Street by rotating the façade of the Residential Building so that a centerline axis through the tower would be generally perpendicular to Potomac Avenue rather than following the alignment of the former Half Street right of way. This design element will open up a view corridor to and from the Ballpark and the river between the Residential Building and the West Office Building.
- 47 The Commission finds that the site plan of the project as set forth in the Final PUD Application is appropriate for the PUD Site and will create important view corridors and interesting façades.

Mix of Uses

- 48 While a density of 4.4 FAR was appropriate for the PUD Site, the Commission noted a preference for a mix of uses including increased gross floor area for apartments. The Final PUD Application incorporated an 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. All the additional gross floor area resulting from the increased height will be devoted to apartments (either for rent or sale). As a result, the project will include approximately 323,433 square feet of gross floor area devoted to apartments. The density of residential use – including the gross floor area devoted to apartments and the hotel use deemed residential for the PUD Site – will be 2.25 FAR, or more than 50% of the proposed gross floor area of the project as a whole.
- 49 The 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 space – will create day and

might traffic and lend vibrancy to the project and the area south of the Ballpark. The Commission further finds that the use of increased height to achieve the additional residential use is appropriate and will add aesthetic interest to the roof line of the project.

Creation of Civic Spaces

- 50 The Commission noted concerns that planned civic spaces were not influential in the project. The Final PUD Application incorporated significant and well-proportioned open, civic spaces, where the Applicant's proposal to increase the planned open spaces was 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 will include Anacostia Place and the Cascade Plaza, which are intended to attract the public and bring vibrancy and activity to the project. The project will also incorporate two publicly accessible covered spaces, the Potomac Quay and the Capitol Quay, which will link the project and waterfront and the South Capitol Street Oval.
- 51 OP noted in its report that the project will incorporate a variety of open spaces – both visually open but physically enclosed spaces, such as the Potomac Quay and the Capitol Quay, as well as open spaces, including the 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.
- 52 The Commission finds that creation of a variety of civic spaces is a superior aspect of the project.

Sense of Place

- 53 The Commission noted that the project as previously conceived lacked a sense of place. In the Final PUD Application, the Applicant presented a project defined through its unique location in the near Southeast. A sense of place will be achieved through the creation of new public spaces, as well as through the enhancement to previously proposed public spaces, such as the Esplanade. The public spaces will enhance the project and complement adjacent public spaces, such as Diamond Teague Park.
- 54 The project's more fully developed retail vision will also create a sense of place for the project. The Applicant set forth a detailed retail merchandising plan, prepared by StreetSense and found at Tab A in the Revised PUD Submission (Exhibit 67), intended to enliven the Anacostia Riverfront with a mix of visible and accessible retail, restaurant, entertainment, and other activity-generating uses.
- 55 The project will also create a sense of place by its design complementary to the adjacent Ballpark. The project will provide visual and physical transparency between the Ballpark 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

- 56 The Commission finds that the project will achieve the goal of creating a sense of place through a variety of elements, including its civic spaces, retail vision, enhanced residential component, architectural treatment, and festive waterfront experience

Elimination of Viewing Pier

- 57 The Commission commented that a proposed project amenity viewing pier extending into the Anacostia River was not a necessary or contributing element to the project. The Commission concurs with the Applicant's proposal, made in the Final PUD Application, to eliminate the viewing pier and to incorporate the funds previously allocated to the viewing pier amenity instead into a proposed contribution to the District for application to Diamond Teague Park

Phasing of Project

- 58 The project was proposed to be constructed in four phases, as shown on the phasing plans (Exhibit 82)
- a. Phase One will include the East Office Building, Anacostia Place, and the adjacent portion of the Esplanade,
 - b. Phase Two will include the Residential Building, the Potomac Quay, and the adjacent portion of the Esplanade;
 - c. Phase Three will include the West Office Building, the Cascade Plaza, and the remainder of the Esplanade, and
 - d. Phase Four will include the Hotel Building and the Capitol Quay
- 59 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
- 60 Construction of Phases Three and Four cannot commence until the final realignment of the Frederick Douglass bridge and the land exchange with the District are completed for the South Capitol Street Oval. Therefore, the 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

- 61 The 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

62. The project incorporates the following public benefits and project amenities.

- a. *Housing and Affordable Housing (§ 2403 9(f))* The Applicant committed to the construction of 323,433 square feet of gross floor area devoted to apartment units. The Applicant agreed to reserve approximately 29,000 square feet of gross floor area of the residential development for workforce housing, meaning housing available to households making a maximum of 80% of Area Median Income in the District of Columbia. The workforce housing will be implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits (Exhibit 94).
- b. *Landscaping or Creation or Preservation of Open Spaces (§ 2403 9(a))* The project will incorporate an esplanade that will extend for approximately 719 linear feet along the Anacostia River, not less than 75 feet in depth, with limited projections above and into the air space of the esplanade by the Residential and Hotel Buildings. The Esplanade will be accessed by pedestrians from Anacostia Place, the Potomac Quay, the Cascade Plaza, and the Capitol Quay and will enable the creation of an attractive waterfront experience. The design of the Esplanade will incorporate biofiltration elements providing environmental benefits. The Applicant agreed to contribute \$800,000 to the District for construction and on-going maintenance of the Diamond Teague Park. The 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 committed to develop a sustainable design for the project, including a biofiltration plan to manage stormwater run-off. The Applicant also agreed 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 agreed that, if it was unable to achieve certification prior to issuance of 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 one percent of the construction cost for that phase of the project, as identified on the building permit application. When the applicable phase of the project achieved LEED certification, the Security would be released.

to the Applicant. In the event that the Applicant did 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 U.S Green Building Council determined the building would not obtain certification for that phase, the Security would be released to the District in accordance with applicable laws

- d *Transportation Management Measures (§ 2403 9(c))* The Applicant agreed to implement a transportation management program intended to provide services and incentives to increase the efficiency of the roadway network without adding additional capacity. 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 will also include a below-grade loading dock that will permit a majority of loading activities to take place on-site and not visible from Potomac Avenue To manage the loading area, the transportation management program included a truck management plan (See Tab 3 to the Summary of Amenities and Benefits – Exhibit 94)
- e *Employment and Training Opportunities (§ 2403.9(e)).* The Applicant entered into a First Source Employment Agreement with the Department of Employment Services (“DOES” requiring the Applicant to use DOES as its first source to fill all new jobs created as a result of construction of the project The Applicant will seek to have at least 51% of these newly created jobs, and at least 51% of the apprentices and trainees positions, filled by District residents The Applicant also renewed its offer of a supplemental program related to job opportunities that was incorporated into the originally approved PUD This amenity will be implemented throughout each phase of the project The Applicant committed to make a bona fide effort to utilize Local, Small, or Disadvantaged Business Enterprises (“LSDBE”) (now called Certified Business Enterprises (“CBE”)) certified by the D C Department of Small and Local Business Development (“DSLBD”) to achieve, at a minimum, the goal of 35% 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

- 63 Pursuant to § 2403 10, the Commission finds that the project qualifies for approval by being acceptable in all proffered categories of public benefits and project amenities, and superior with respect to housing, affordable housing, and environmental benefits

Development Flexibility and Incentives

- 64 The Applicant requested 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 stated that the maximum heights of the buildings in the project would be 90, 100, and 110 feet. In order to provide more attractive retail space, the Applicant requested an increase by two feet from the maximum heights 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. The resulting maximum heights will be 92 feet and 112 feet, respectively. The Applicant also requested increases in height for the Residential Building and the Hotel Building from 100 feet and 110 feet respectively, to 130 feet. This increased height will allow the project to provide additional gross floor area for apartments, increased open space, and greater ceiling heights for the retail spaces. This maximum height is permitted for a PUD in the C-3-C Zone District. The Commission finds that the increased heights are warranted to achieve important goals of the project.
- b *Loading* Due to the multiple uses on the PUD site, the loading requirement would be two loading berths at 55 feet, 14 loading berths at 30 feet, and eight service-delivery spaces. The project will provide two loading berths at 55 feet, 12 loading berths at 30 feet, and eight service-delivery spaces. The loading areas will be located primarily within a below-grade loading facility and will be operated consistent with the Applicant's truck management plan. The Commission finds that the proposed loading will be sufficient for the proposed mix of uses in the PUD.
- c *75-Foot Setback.* The Design Guidelines required a minimum setback of 75 feet. While the project will comply with this requirement at the ground level, the Residential Building and the Hotel Building will include projections of 25 feet at the second floor and above. The projections will maintain a minimum setback of 50 feet. The Commission finds that the projections into the setback will result in a varied and interesting façade at the upper levels of the affected buildings, and are appropriate for the project.

Compliance with PUD Standards

- 65 The Final PUD Application complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations. The Commission finds that the project offers a sufficient level of public benefits and project amenities in proportion to the flexibility and incentives requested by the Applicant.
- 66 The PUD Site area is approximately 253,500 square feet of land, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the C-3-C Zone District, in accordance with § 2401.1(c) of the Zoning Regulations.
- 67 The project has been evaluated under the PUD guidelines for the C-3-C Zone District. The project will be in compliance with the height and density permitted for a PUD in the

C-3-C Zone District. The project has been evaluated under the Design Guidelines and is generally in compliance with those standards.

68. The project will have no adverse impact on the surrounding area. The existing water and sewer services are adequate to serve this facility.
69. By virtue of the extension of the First-Stage PUD approval in Order No. 910-B, the Commission found that the first-stage approval, as modified by the Design Guidelines, was not inconsistent with the Comprehensive Plan. The Commission reaffirms that conclusion. The Commission credits the testimony of OP and of the Applicant's expert in finding that the project will not be inconsistent with and will further the District-wide elements of the Comprehensive Plan, the Lower Anacostia Waterfront/Near Southwest Area element, and the Future Land Use Map adopted as part of the Comprehensive Plan of 2006.

Office of Planning

70. By report dated March 10, 2008, OP recommended approval of the Final PUD Application subject to the following conditions: (a) concurrence of DMPED regarding the proposal to contribute \$800,000 for the construction of Diamond Teague Park, (b) additional detail regarding the Applicant's CBE 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. In its testimony at the public hearing, OP noted that the first three conditions were resolved by materials submitted by the Applicant in its Summary of Amenities and Benefits (Exhibit 94), which included a letter from DMPED (Tab 2) that indicated DMPED's willingness to accept a contribution for Diamond Teague Park, the executed First Source Employment Agreement with the Department of Employment Services, including information regarding the supplemental employment and skills program (Tab 4) and the executed agreement for utilization of CBEs (Tab 5); and a detailed transportation management program, including a truck management plan (Tab 3).
71. OP concluded that the project was not inconsistent with, or would further, the Comprehensive Plan of 2006, noting that the project was not inconsistent with the objectives and action items within the District-wide elements of the Comprehensive Plan, particularly those related to the provision of more housing, retail and job opportunities, better connectivity to the waterfront, and new open space. The project also would further the objectives and action items contained in the Lower Anacostia Waterfront/Near Southeast Area element (Chapter 19).
72. The Commission notes that OP raised questions about the design of the fountain in Anacostia Place, but finds that the proposed fountain design will be appropriate to anchor the open, civic space.

District Department of Transportation

73. DDOT did not comment on the Final PUD Application, but in a report dated September 14, 2006 (Exhibit 38) and through its testimony at the 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. Following discussions with the Applicant, DDOT submitted a supplemental report, dated November 27, 2006 (Exhibit 52), in which DDOT concluded that the Applicant had successfully addressed DDOT's concerns.

ANC 6D Report and Testimony

74. 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 (Exhibit 90). ANC 6D reaffirmed its support for the application, commenting favorably on the new design and layout of the project. According to ANC 6D, the PUD will be a high quality, thoughtful development that will provide a lively destination and will be an asset to the Southwest/Near Southeast community.

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, the 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, density, lot occupancy, parking, loading, yards, or courts.
3. The development of this project will carry 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 exception of additional height. The size, scale, design, and use of the project are appropriate for the PUD Site and for the general Ballpark 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 sufficient 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 issues and concerns raised by the affected ANC. The Commission has carefully considered ANC 6D's 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 the C-3-C Zone District is consistent with the purposes and objectives of zoning as set forth in the Zoning Enabling Act, § 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 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. For the reasons stated above, the Commission concurs in OP's recommendation for approval.

16. Pursuant to 11 DCMR § 2608.2, all other provisions of Chapter 26 of the Zoning Regulations (Title 11 DCMR), Inclusionary Zoning, do not apply to this application because it was set down for hearing prior to March 14, 2008

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 Zone District. This approval is subject to the following guidelines, conditions, and standards

- 1 The PUD shall be developed 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 100 (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, including at least 29,000 square feet devoted to housing affordable to households earning a maximum of 80% of Area Median Income. 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 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 (Exhibit 94).
- 7 The Applicant shall implement a transportation management plan that shall 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 (Exhibit 94).

8. The Applicant shall make a payment in the total amount of \$800,000 to the District for construction, installation, and/or on-going maintenance of the adjacent Diamond Teague Park. The Applicant's contribution shall be made in one payment to the District no later than 60 days after the date this Order is published in the *D.C. Register*, or at a later date as determined by the Deputy Mayor for Planning and Economic Development, or his designee.
9. The Applicant shall reserve a minimum of 29,000 square feet of gross floor area in the Residential Building devoted to workforce housing implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits (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 one percent (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. Department of Small and Local Business Development attached as Tab 5 to the Summary of Amenities and Benefits (Exhibit 94) to achieve the target goal of 35% participation by Certified Business Enterprises 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 (Exhibit 94), to achieve the goal of utilizing District of Columbia residents for at least 51% 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 (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 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 Construction Codes 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 any building in the approved PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners(s) and the District of Columbia, that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA") The covenant shall bind the Applicant and all successors in title to construct on and use the PUD Site in accordance with this Order or amendment thereof by the Zoning Commission
- 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

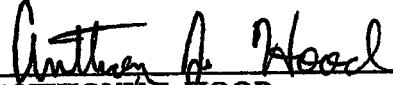
a building permit for Phase Two, and construction of Phase Two shall begin within three years of the issuance of a certificate of occupancy for Phase One. An application for a building permit for Phase Three shall be filed within one year after the later of the completion of the reconstruction of the Frederick Douglass bridge 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 took proposed action to **APPROVE** 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 G. May abstaining).

At its special public meeting on May 22, 2008, the Commission took final action to **ADOPT** this Order by a vote of: **5-0-0** (Gregory N. Jeffries, Michael G. Turnbull, Anthony J. Hood, Curtis L. Etherly, Jr., and Peter G. May)

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on JUN 27 2008.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

Surgeon's Office
DISTRICT OF COLUMBIA

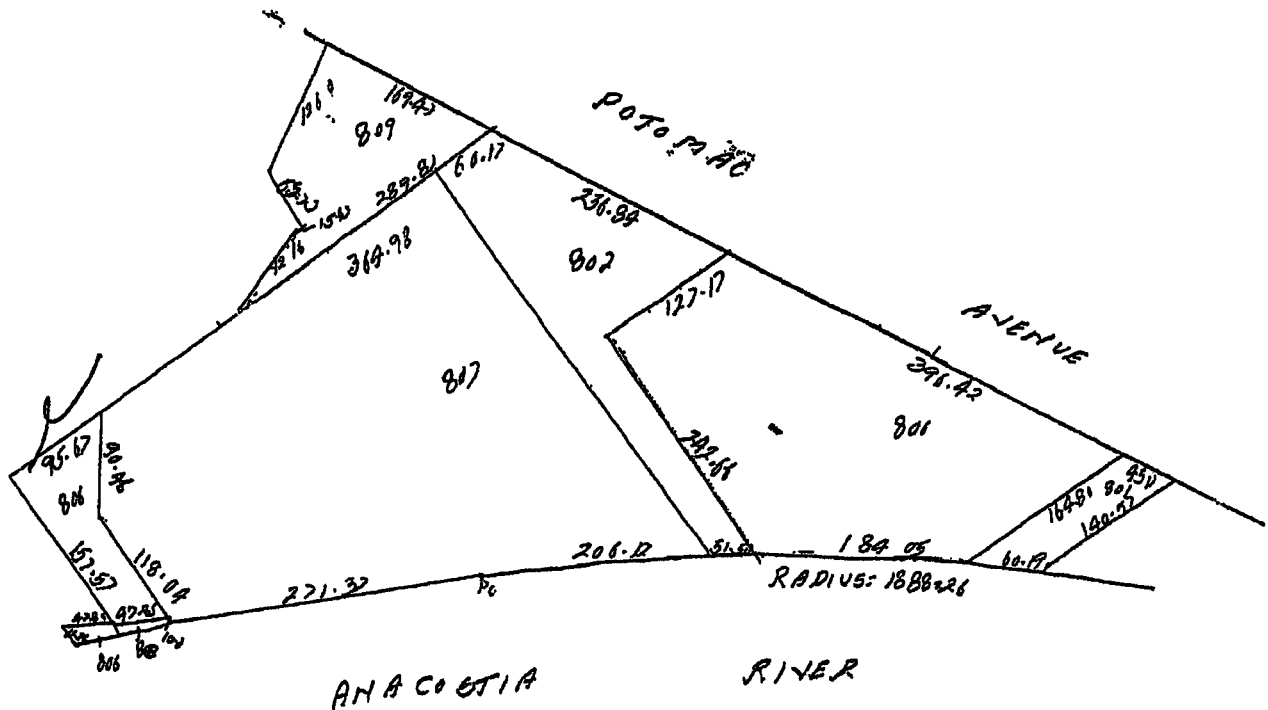
SQUARES 708 Washington, D.C. 07-23-1998
Plat, for Building Permit of SQUARE 707 LOTS 608, 609, 610, 611
84 SQUAR 706 LOT 809 SQUARE 708 LOTS 812, 813, 814
Recorded in Book 1716 Page F16B
Book 1 inch - 80 feet a.c. 2689

Furnished to DAVIS, BUCKLEY & ARCHITECTS
 Surgeon, District of Columbia.
 Per D.M.S.

[illegible]

Date 7/30/98
John A. Sullivan
 Signature of signer or the authorized signer

NOTE: DATA SHOWN ON ASSIGNMENT AND TAXATION LOTS ON PARCELS ARE FOR RECORDS OF ASSIGNMENT, E. G. BUT DO NOT NECESSARILY AGREE WITH DEED DESCRIPTION.



Z.C. Case 04-14

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



Z.C. CASE NO.: 04-14

JUN 20 2008

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 04-14 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|--|--|
| 1. David Briggs, Esq.
Holland & Knight, LLP
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006 | 5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 |
| 2. Robert Moffatt, Chair
ANC 6D
P.O. Box 71156
Washington, DC 20024 | 6. Councilmember Tommy Wells |
| 3. Commissioner Rhonda N. Hamilton
ANC/SMD 6D06
44 O Street SW, # 12
Washington, 20024 | 7. Office of Planning (Harriet Tregoning) |
| 4. Commissioner Robert Siegel
ANC/SMD 6D07
919 5th St SE
Washington, 20003 | 8. DDOT (Karina Ricks) |
| | 9. Zoning Administrator (Matt LeGrant) |
| | 10. Office of the Attorney General
(Alan Bergstein) |
| | 11. General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |

ATTESTED BY: Sharon S. Schellin
Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning



Government of the District of Columbia

Neil O. Albert
Deputy Mayor for Planning and
Economic Development

November 26, 2008

Mr. David H. deVilliers, President
Florida Rock Properties, Inc.
34 Loveton Circle, Suite 100
Sparks, Maryland 21152

Dear Mr. deVilliers

This letter is to confirm receipt of payment by Florida Rock Properties, Inc ("FRP") of \$800,000 to the District of Columbia, through the office of the Deputy Mayor for Planning and Economic Development ("DMPED"), in compliance with Condition No. 8 of Zoning Commission Order No. 04-14. That condition required FRP to make such payment for construction, installation, and/or on-going maintenance of the proposed Diamond Teague Park, located adjacent to the site of FRP's PUD approved by the Order. The payment was made at a date determined by DMPED in accordance with the condition.

I appreciate your work with this office related to this contribution and the development of Diamond Teague Park. I look forward to working with you further on our adjacent projects.

Sincerely,



Neil O. Albert

cc. Zoning Commission for the District of Columbia
David Briggs, Esq., Holland & Knight LLP



September 16, 2009

Mr David H. deVilliers, JR
President
FRP Development Corp
34 Loveton Circle, Suite 100
Sparks, MD, 21152

**RE RiverFront on the Anacostia, located in the 100 Block of Potomac Avenue,
Southeast Washington D.C. – Development/Equity Partner Search**

Florida Rock Properties, Inc (“Owner”) retained Jones Lang LaSalle (“JLL”) to identify a development/equity partner to participate in the development of RiverFront on the Anacostia (“RiverFront”). RiverFront is a mixed-use, waterfront project with Second Stage Planned Unit Development (PUD) approval from the District of Columbia. The Owner was seeking a development firm with demonstrated expertise in high profile mixed-use development along with the financial capability to contribute immediately to the funding of the design and construction of Phase I of RiverFront.

RiverFront on the Anacostia FAR by Phase

	Phase I East Office Building and Anacostia Place	Phase II Residential Tower	Phase III West Office Building and Cascades Plaza	Phase IV Hotel/ Residential Tower	Total RiverFront
Office	228,532		236,405		464,937
Residential		291,223		32,210	323,433
Hotel				246,190	246,190
Retail/Civic	19,704	28,293	18,902	13,935	80,834
	248,236	319,516	255,307	292,335	1,115,394

Between June and mid-September 2009, Jones Lang LaSalle implemented a formal campaign to solicit firms to commit resources and equity for the development, design, construction and delivery of Phase I. A key factor in the selection process was the equity

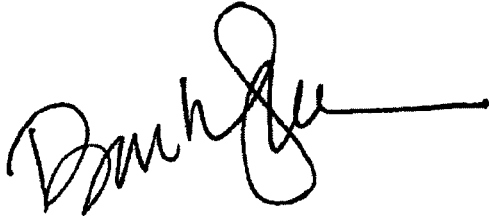
RiverFront on the Anacostia
Developer/Equity Search
September 16, 2009

partner's willingness and ability to develop Phase I in the time frame specified in the Second Stage PUD Order JLL targeted twenty-four qualified candidates Nine of the targeted candidates expressed interest and received formal Request for Proposals

Over the course of the campaign, the overwhelming response from interested parties was that the site offered incredible long-term development potential Despite this potential, all interested parties felt that current market conditions in general, in Southeast D.C., and particularly in the Capital River Front submarket were so bleak that at this time developing a proforma for an economically feasible project was not possible.

Despite numerous discussions, because of the current market conditions no respondent made a commitment to fund any of the equity required to meet the schedule anticipated in the Second Stage PUD Order

JONES LANG LASALLE AMERICAS
Project Development Services

A handwritten signature in black ink, appearing to read 'Barbara Gloeckner', with a long horizontal line extending to the right.

Barbara Gloeckner
Senior Vice President

cc: Andrew Jones
Stephen Perkins



September 22, 2009

Mr David H deVilliers, JR
President
FRP Development Corp
34 Loveton Circle, Suite 100
Sparks, MD, 21152

**Re: Current Financing Market & Financing for RiverFront on the Anacostia
located at 100 Block of Potomac Ave SE, Washington, DC**

Dear Mr deVilliers

The following report was prepared by Jones Lang LaSalle Real Estate Investment Banking (REIB) and provides an overview of the state of the real estate financing market, some additional information regarding new construction financing; and some more specific observations including lender comments regarding financing for the first Phase of RiverFront on the Anacostia located at 100 Potomac Avenue in SE Washington DC

CURRENT FINANCING MARKET

Overview

As of the summer 2009, the commercial real estate financing market remains exceptionally difficult and sluggish. At its peak, the commercial mortgage backed securities (CMBS) market represented approximately 25% of all commercial lending in the United States. The downturn in the capital markets began in the summer of 2007 and took hold in the summer of 2008, rendering the CMBS market non-existent, essentially leaving banks and life insurance companies as the sole financing sources today. In

addition, approximately one third of banks and life insurance companies are presently “out of the market” entirely, in an effort to reduce their loan portfolios or focus on asset management. As a result, there is a significant gap between the number of commercial real estate (CRE) projects requiring financing, and the availability of funds. This, among other factors, has led to a significant tightening of liquidity and significantly increased levels of lender scrutiny for all types CRE projects (existing assets and new construction). Further, lenders have increased yields, significantly increasing the cost of capital for borrowers. The increased cost of capital and inability to refinance projects has caused stress for some borrowers and has contributed to further weakening of the capital markets. The deterioration of the commercial real estate market has led to a decrease in the value of real estate assets, and underlying loan collateral, causing essentially all lenders to raise the amount of reserves allocated to potential loan losses, further decreasing the availability of capital for new and existing CRE projects.

One of the largest issues borrowers face are loan maturities. CRE commonly have maturity dates of 3, 5, 7, and 10 years, requiring projects to be refinanced at the end of the term. This applies to existing buildings as well as new construction projects. As loans mature, a borrower must seek financing from the existing lender or from a new source. With lenders tightening standards and a lack of liquidity, many owners are having difficulty refinancing their loans at maturity.

As a result of the change in lending criteria, increased lender scrutiny, fewer available capital sources, and general lack of liquidity, many projects are simply not able to obtain financing today. In fact, only the best projects with the highest quality borrowers are able to get financing, and these deals must prove to be very profitable.

Decreased Loan Sizes

Another factor complicating the CRE market is loan size. When it was operational, the CMBS market stood as the primary financing source for “large loans” (\$100 million +). Following the credit crunch and the subsequent tightening of lending standards, virtually all lenders are focused on decreasing their CRE exposure. On average, most lenders are

looking to “hold” no more than \$15-25 million of any one loan on their books. This can be accomplished by only lending on smaller real estate projects, or through syndication to other banks. It is now common place for lenders to require syndication for CRE loan transactions greater than \$25 million. Thus, a large loan of \$100 million would require upwards of four lenders to complete. This obviously increases the level of complexity of each large deal.

Increased Underwriting Standards

The tightening of liquidity for CRE projects has enabled lenders to require significantly tighter terms on virtually all aspects of new CRE loans. These terms include, but are not limited to,

- increased yields,
- lower loan to values (LTV) ratios,
- decreased amortization periods,
- significantly higher levels of borrower recourse, and
- higher preleasing requirements

Underwriting standards have tightened across the board. Rental rates, vacancy allowances, operating expenses, capital requirements, valuation methodologies and debt service coverage ratios have all been modified to reduce lender risk by providing lower LTV's and increased collateral security. Simply, lenders are only making loans today that have no conceivable way of allowing them to lose money. This is a shift in lender practice compared to CRE boom times that the market experienced between 2004 and 2007. Additionally, lenders are very selective about borrowers and often require significant collateral business in exchange for real estate loans (especially deposit relationships).

Tenancy / Lease Expiration

Lenders are very focused on the property rent roll and tenant credit. Given the current state of the economy and the recession, lenders are focused on the net worth and creditworthiness of tenants and the length of lease terms at a property. Leases are scrutinized and tenant financial statements are underwritten carefully to estimate tenant's profitability and solvency. In addition, lenders are assuming lower tenant renewal probabilities than those used in the past and increasing the projects' capital requirements for "rollover vacancy".

Single Tenant Buildings

Presently, lenders abhor single tenant buildings and underwriting for single tenant assets is more diligent than that performed on any a multi-tenant asset. Despite a 10-15 year lease from a credit tenant, the lender often assumes a 0% tenant renewal probability, underwriting the loan as if the tenant vacates the property at the end of the lease term. Using these assumptions, lenders are effectively writing self-amortizing loans for single tenant properties. This significantly drives LTV's down and debt constants up, with amortization rates of 15-20 years. Despite the underlying credit, single tenant government leased buildings are not an exception to these criteria.

Rents in Place NOI

For existing multi tenant properties, lenders will not lend based on future projected rent. Rather, they will lend only on rent from existing leases in place at the property. Referred to as "rents in place NOI", a lender will look at the existing net operating income, assuming no new leasing, apply a debt service coverage ratio, and size the loan accordingly. Additional loan dollars may be available as new leasing occurs at the property. This sizing parameter has had a profound impact on reducing initial loan to values.

Cap Rates

With investment sale activity down nearly 95% from 2007 highs, there is simply very little comparable data on market cap rates and it has become increasingly difficult to

support projections of asset value. Furthermore, investors are focused on acquiring assets at deep discounts, given the perceived eminent capitulation from banks, distressed borrowers and looming debt maturities that borrowers are unable to refinance. These dynamics have caused a gap between the bid and ask price and significantly increased yield expectation from investors. These factors have not only resulted in lull in sale activity, but an upward shift in cap rates across the board. The increase in the cost of capital from CRE lenders has had the single largest impact on these factors, driving cap rates up by 100 to 300 basis points or more from lows experienced over the last few years.

CONSTRUCTION FINANCING MARKET

Financing for new construction projects has become exceptionally more difficult over the past twelve months. As cap rates have increased for all asset types, values have been driven to a level that is now largely below replacement cost. In other words, to the extent that existing buildings are trading, the transfer price is likely to be less than the cost to build a new project from the ground up. Coupled with this trend, the tenant market has contracted creating more competition between landlords and ultimately resulting in downward pressure on rental rates. The reduction in rental rates has driven the returns for development projects down, making many development projects even less feasible. Additionally, given the reduction in capital available for CRE projects, lenders can be very selective about the projects they finance. While banks have traditionally been the primary source for CRE construction lending, borrowers are turning to banks to also finance existing projects due to the lack of liquidity. In many cases, banks are focusing their lending efforts on existing projects, because these assets allow banks:

- to deploy all of their money at once, compared to a two year period (approximately) for a construction loan;
- to lend on in-place income providing immediate security and debt service coverage to their loan collateral, and
- existing buildings are far less risky than a construction project that is still only a design.

Financing for construction loans is still available, but exceptionally scarce, and much more heavily scrutinized compared to even 12 months ago. Below we have identified some of the most significant changes that borrowers face when seeking a CRE construction loan in today's market.

Speculative Construction

With lenders currently focused on strong projects and first tier borrowers, the projects being financed are those projects with the highest probability of servicing the debt. In the current market, speculative construction projects are extremely difficult and nearly impossible to finance, because lenders are generally not willing to take the risk on the leasing market. To minimize this risk, lenders will require some level of preleasing prior to providing financing for a development. There is no hard and fast rule today, but it would be typical for a lender to require preleasing of 50% or more, or require enough preleasing to obtain a 1.0X debt service coverage ratio (DSCR). Exceptions to this might be exceptionally low financing proceeds (40% loan-to-cost or lower), or borrowers with significant net worth and liquidity providing significant guarantees.

Relationship Lending

Lenders are increasingly focused on lending to customers that have existing relationships with the bank. This is a big problem for many developers who do not have existing banking relationships. With credit requirements increasing and liquidity tightening, lenders are focused on generating banking relationships that will result in multiple streams of income, from various account types for the banking institution. Thus, many lenders are very focused on only doing business with borrowers that will accomplish these goals, while simultaneously lending only on profitable CRE loans. In order to accomplish this, lenders will often require review of the guarantor financial statements in advance of reviewing the proposed real estate transaction. In some cases, lenders must meet with borrowers face to face before reviewing real estate transactions, in an effort to underscore the client relationship. Assuming that these meetings go well, a lender will then proceed to review the proposed transaction. A lender will then issue a non-binding terms letter only after intense scrutiny from internal underwriting and credit committees.

As a condition to making the loan, lenders will require that the borrower establish a significant deposit relationship, and possibly require exclusive rights to other financing opportunities that the borrower controls, among other stipulations.

Recourse Lending

At least for now, nonrecourse construction loans are largely a thing of the past; borrower recourse is once again commonplace for virtually all construction loans, with very limited exception. As if lower LTV's, conservative underwriting and higher interest rates weren't enough, lenders want to be certain that their loan collateral is secure, so recourse to the borrower required. Recourse includes repayment, debt service, and completion guarantees. Banks now require recourse regardless of whether they are lending on a construction project, or a fully stabilized existing office building. If a borrower/guarantor's financial statements are insufficient to provide the bank comfort that there is enough "cushion" to weather any issue a property might face, then the bank will simply decline to lend to that borrower. Recourse is a problem to both small developers and institutional investors. Developers often have multiple projects at any given time. The introduction of recourse to their balance sheet becomes problematic because it limits the number of projects they can work on due to encumbrances on their balance sheets. Recourse is problematic for most institutional investors because few were set up to be able to accommodate guarantees on the fund level, potentially exposing other assets in the fund if one project goes bad.

Loan to Cost (LTC)

Historically, many construction lenders would allow a developer to borrow up to 80% of the project cost. In an effort to ensure that loans do not become out of balance, lenders have reduced the maximum allowable loan to value (LTV) and loan to cost (LTC). Current LTV / LTC ratios are in the 50% to 65% range. Ultimately, this is problematic because it requires a developer to put more of its own money into a transaction, increasing its risk, and decreasing its ability to begin other projects. Borrowers that are not well capitalized are having great difficulty obtaining the amount of loan proceeds they need to get projects off of the ground.

Loan Size

Similar to what is described above; construction lenders are very focused on limiting their total exposure. Although every bank has a legal lending limit, many banks have set internal ceilings on the total amount of any one loan that they are willing to hold on their balance sheet. For the larger banks, this amount tends to be in the \$25 million range. For smaller, regional banks, this amount tends to be in the \$10-20 million range. For community banks, this amount tends to be \$1-7 million. As previously noted, this adds an increased level of complexity for all but the smallest of CRE projects.

Borrower Exposure

One of the most recent issues large institutional borrowers are facing is total exposure to the bank. In addition to increased scrutiny in underwriting and limiting loan sizes, banks want to make sure that they do not have too much exposure to any one borrower. In the midst of the era of "relationship lending", this is becoming increasingly problematic for borrowers of all sizes. While smaller local developers have traditionally concentrated their business with relationship banks, many lenders are trying to mitigate the possibility of downside of insolvency from any one borrower. Although the absolute numbers are bigger, larger commercial banks are also focused this same issue with their institutional clients. Depending on the level of exposure a bank has with a respective borrower, the bank may decide to temporarily stop doing business with that borrower in an effort to further mitigate risk.

FINANCING OF 100 BLOCK OF POTOMAC AVENUE S.E., WASHINGTON D.C.

Summary of the Property

The Property is a multi-phase, mixed-use development inclusive of office, retail, hotel and residential. This high-profile waterfront site is located in a dynamic submarket experiencing significant transformation. This site offers views of the downtown skyline including the U.S. Capitol, Washington Monument, Washington Nationals Baseball stadium and Navy Yard. On site amenities will include arcaded retail areas, civic spaces,

plazas terraced down to the Anacostia River, water features, a bike trail, and a waterfront esplanade.

As approved, the developer contemplates building the project in four phases: Phase I consisting of office uses with ground retail uses; Phase II consisting of residential and retail uses, Phase III consisting of office and retail uses, and Phase IV consisting of hotel uses with residential uses above.

A summary of the total build-out (Phases I through IV) is set forth below:

Type	Sq. Ft.
• Office	464,937
• Residential	323,433
• Hotel	246,190
• <u>Retail</u>	<u>80,840</u>
Total	1,115,400

Phase I of the project will consist of approximately 250,000 SF of office and retail space. The Property has received Second Stage PUD approval from the Zoning Commission of the District of Columbia and, consistent with this approval, is seeking to commence to develop Phase I of the project within the approval period

JLL Assumptions

For the purposes of this study, Jones Lang LaSalle's Real Estate Investment Banking group (JLL REIB) has analyzed only Phase I of the project, consisting of 250,000 SF of office and retail space. We have assumed that this space will be developed entirely on a speculative basis because there is currently no preleasing in place.

Bank Feedback and Conclusions

Based on the current financing market as described above, JLL REIB discussed this project and the availability of construction financing of Phase I with four different lenders. None of the lenders was prepared to provide construction financing for Phase I, citing in part the following

- **Preleasing** – at a minimum, the project must be 50% preleased to obtain financing
- **Loan to Cost** – assuming 50% preleasing, the borrower would likely obtain maximum proceeds of 60-65% loan-to-cost, thus requiring a significant equity investment.
- **Guarantees** – the borrower will have to demonstrate sufficient net worth and liquidity, and provide repayment, debt service and completion guarantees to satisfy the bank.

JONES LANG LASALLE AMERICAS, INC.



By James R. Gladden
Vice President

cc: Wes Boatwright, Jones Lang LaSalle
Barbara Gloeckner, Jones Lang LaSalle
Andrew Jones, Jones Lang LaSalle