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March 10, 2005

VIA HAND DELIVERY

Zoning Commission of the District of Columbia
One Judiciary Square, Suite 210 South
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: ZC Case 04-30: The Citadel – Pre-Hearing Statement Conveying Revised Plans and Reports, Certain Additional Materials As Requested, and Checks for Filing Fees

Honorable Members of the Commission:

At is regular monthly meeting of December 13, the Zoning Commission agreed to hear the application of Faison Associates (for Douglas Development, Inc., the owner of the property) to establish, as a Planned Unit Development ("PUD"), a mix of allowed commercial uses within a building previously used for parking, storage, gasoline station, assembly hall, sound stage, and, for many years, a roller skating rink located in the heart of Adams Morgan known as "The Citadel," located at the intersection of Kalorama Road and Seventeenth Street, N.W. (Square 2572, Lot 36)

The Office of Planning ("OP"), both through its report to the Zoning Commission and the remarks from its staff, recommended that the case be heard. That Office also suggested that, prior to the hearing, the Applicant address nine aspects of the case, some of which were briefly discussed by members of the Commission at that public meeting. OP's report dated December 3, 2004 set out nine issues, lettered below for convenience (but not in the original), as follows:

A. A variance application from Section 1402.2 to address the requested increase in FAR.
B. Details of the grocery store operations such as hours of operation, including peak hours, and the timing of trucks making deliveries to the store and the office.
C. Information on the preferred retail use at Kalorama Road and 17th Street.
D. A Traffic Management Plan.
E. A detailed public benefit package and details demonstrating how it offsets the deviations requested.
F. A parking plan that identifies those spaces and drive isle [sic.] that do not meet the code requirement and, the flexibility requested.
G. Details of the proposed roof structures with dimensions.
H. A Landscape Plan.
I. Facade improvements along 17th Street.

District of Columbia
CASE NO. 04-30
EXHIBIT NO. 22

This letter and the materials that accompany it provides all the additional, requested materials, certain other materials as summarized below, and checks for the respective filing fees (one for the PUD itself and one other for the variance, if needed).

Is A Variance Request Also a Necessary Part of This Application for a Planned Unit Development?

As noted above, the Office of Planning's report and remarks introduced a question as to whether the "excess" gross floor area this application seeks requires a variance to overcome a limitation set out in the Reed Cooke overlay zone's rules:

A. A variance application from Section 1402.2 to address the requested increase in FAR..

The Commission's Chair remarked that it was not clear if such would be needed, depending on the interpretation of the term "bulk" within Section 1402.2 The Commission's Secretary recommended that applicant file variance application on a non-prejudicial basis and that, when filed, it be so accepted.

This submission addresses both the legal issues presented while completing and filing a request for variance relief on the basis suggested (legal analysis at Tab A, below; variance application and supporting materials at Tab V).

As a matter of law, the Applicant concludes that there is no need for a variance, as explained therein.

Other Issues Raised by the Office of Planning or Zoning Commission During the Set Down Decision at its Public Meeting

This submission includes narrative that addresses:

B. Details of the grocery store operations such as hours of operation, including peak hours, and the timing of trucks making deliveries to the store and the office. (Narrative, at Tab B below)

C. Information on the preferred retail use at Kalorama Road and 17th Street. (Narrative, at Tab C below)

D. A Traffic Management Plan (Report and Technical Appendices, at Tab D, below, in Revised/Expanded Traffic Impact Analysis and Traffic Management Plan Mechanisms)

E. A detailed public benefit package and details demonstrating how it offsets the deviations requested. (Narrative, at Tab E below)

The submission also includes revised plans (and accompanying narrative) that address or provide:

F. A parking plan that identifies those spaces and drive aisle that do not meet the code requirement and, the flexibility requested. (Descriptive Narrative at Tab D, below; new drawings at Tab Z, below: Sheets A200 and A201, and the related zoning computations summarized on Sheet C-1)

G. Details of the proposed roof structures with dimensions (Descriptive narrative at Tab G, below; revised renderings and elevations at Tab Z, below. As a practical

matter, the relief thought necessary for an elevator penthouse when the application was first filed has been resolved and no roof structure zoning issues remain.)[1]

H. A Landscape Plan (Descriptive narrative at Tab H, below; new drawing: Sheet A-100, within Tab Z, below: Landscape Plan)

I. Facade improvements along 17th Street (Descriptive narrative at Tab I, below; new drawing: Sheet A-100, within Tab Z, below: Landscape Plan)

Other Materials Provided

In addition, this submission submits a complete set of plans, at Tab Z, below, so that the Commission, parties, and public can find all diagrams in a single set. These diagrams retain the essence of the plans filed initially, with minor adjustments of layouts, and adds a perspective of the site.

The plans and zoning calculations are revised more significantly in the following respects:

- The scope of development for which approval is now sought excludes two mezzanine areas. As these areas are no longer included in the gross square area of the project, the total Floor Area Ratio ("FAR") decreases significantly, but still exceeds that allowed on a matter of right basis.

- The computation of gross floor areas and floor area ratios set forth in this submission (see Sheets C-1, Z-1 and Z-2) clarifies the determinations of areas to be deemed "cellar" and "basement" under the so-called "perimeter rule" method. This method allocates areas as a function of the proportion of the perimeter walls that are adjacent to portions of floors whose ceilings are less than (cellar) or equal or more than (basement) four feet (4' 0") above the adjacent finished grade. As that method does not provide for showing where that area falls on a given plane, the attached diagrams depict how we "anchored" the limits of those areas to the points where the adjacent grade cross from less than four feet to four feet or more, thereafter expanding or contracting the adjacent floor areas to include or exclude the total square footage dictated by that formula. The net change is a further, but small, decrease in total gross floor area and, thus, floor area ratio.

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[1] The override of the elevators serving the office is now fully contained within the roof of the surrounding addition, a lobby whose ceiling falls within the forty foot (40.0 ft.) height limit established under the site's RC/C-2-B zoning.

Grocer's mechanical equipment will be placed on the flat roof on the northern side of the dome, said area being screened from view from the abutting property to the north by a wall the top of which is less than thirty one feet (30' 5") above the measurement point; no specific relief zoning appears to be needed.

Office mechanical equipment will be located within the volume of the office lobby at its mezzanine level and on a portion of the existing roof, screened by an exiting flat panel or a panel that will connect the existing panel to the mass of the new office lobby; again no specific relief appears to be needed.

Whatever equipment is needed to serve the other retail/service area will be located on the roof of the building above that space, screened by a mesh of appropriate density. None of this equipment will reach four feet (4' 0") above the level of that roof.

- The change in gross square footage by use impacts the computation of applicable parking and loading standards, reducing the former's number of *required* parking spaces and eliminating a portion of the latter. In sum:

    - As revised, without claiming allowable credits under §2100.4, the total amount of *required* parking for the project now proposed is 63 conforming parking spaces. The project provides 66 full-sized conforming spaces. It also provides 60 other spaces, 37 of which fully satisfy the specifications for "compact" spaces and 23 more that are fully functional but are situated in locations of this existing building where columns or other fixed features or requirements intrude *slightly* into one side, end, or corner of the rectangular area parking spaces typically occupy. The spaces are individually annotated in the attached plans at Tab Z, particularly sheets A-200 (for the P-2 level) and A-201 (for the P-1 level), wherein spaces whose overall rectangular area is compromised in any fashion or degree are annotated with an asterisk (*) and tallied, by level, as "other."

    - As revised, both pre-existing ramps and all drive aisles meet the vertical dimensional standard that applies, namely having a clearance that exceeds seven feet two inches (7' 2").

    - As revised, all drive aisles satisfy the twenty foot (20.0 ft.) width requirement for access into and out of all *required* parking spaces and the sixteen foot (16.0 ft.) width requirement for access into and out of all compact spaces angled at sixty degrees (60°) or more from the centerline of the aisle from which they are reached. Technically, the width-of-aisle requirements only apply to aisles leading to and from *required* parking spaces. Nevertheless, this PUD proposes a layout that fully complies with requirements as to aisles serving all parking spaces, be they *required* or not.

    - As revised, the requirement to provide a loading berth and service delivery space for the project's office area is eliminated inasmuch as the total gross square footage for that use now falls below 30,000 square feet.

Filing Fees:

Finally, two checks are submitted, payable to the D.C. Treasurer.

- One check covers the fee for Hearing the Planned Unit Development, based on maximum gross floor area without either the perimeter mezzanine for the grocery store or a central platform mezzanine for the general offices that had been contemplated in the application when first filed as these are now removed in the amount of $7,500.00

- The second check for Hearing a Variance ($800.00). Applicant hereby requests the Office of Zoning to hold that second check, cashing it only if the Zoning Commission ultimately rules that a variance is needed in the first place.

Conclusion:

Applicant believes that this letter, with the materials accompanying it, provides all the materials needed for the case to proceed to public hearing. If you or your staff have any questions, please contact me by telephone at (202) 419-2460, by e-mail at Norman.GlasgowJr@hklaw.com, or by mail or delivery to the undersigned at Holland & Knight LLP, 2099 Pennsylvania Avenue, NW – Suite 100, Washington, D.C. 20006. Thank you.

Holland & Knight LLP

Norman M. Glasgow, Jr.

Enclosures As Described Above

cc: Office of Planning
Advisory Neighborhood Commission 1-C
ANC 1-C Commissioners Alan Roth, Josh Gibson, Brian Weaver, and Lynn Taylor
Steven N. Gell, Esq.

Pre-Hearing Submission – Zoning Commission Case 04-30
"THE CITADEL"
1631 Kalorama Road, NW – Washington, D.C. (Square 2572, Lot 36)

OVERVIEW AND PROJECT SUMMARY

When the "present" zoning regulations became effective May 12, 1958, the site's dominant second commercial zone and the five foot extension (but less the triangular extension of former record lot 9), along with areas west and southwest of it became part of the then "new" CM zone district. The site, along with much of the rest of the areas zoned CM in the Adams Morgan area in 1958, was rezoned RC/C-2-B in the late-1980s to address and resolve an impermissible "inconsistency" between that CM zoning and other zones then applied to the overall area and the precepts of the Comprehensive Plan that the Council adopted and the Mayor approved earlier that decade pursuant to the Home Rule Charter.

The subject PUD application never sought and does not now seek a change in the site's present RC/C-2-B zoning.

The site's eastern and northern property limits are the respective limits of the RC/C-2-B zoning in the Square. Surrounding the site, following adoption of the "overlay" cases during the late 1980s:

- To the northeast, the zoning is R-5-D. The abutting land used for a high-rise apartment building and portions of an accessory surface parking lot serving that apartment house. That parking lot's sole entrance and exit is a single curb cut located just east of The Citadel's site.

- To the northwest, the zoning is R-5-B. The abutting land is an extension of the same accessory parking lot as that situated to the east, described above.

- To the west, across Seventeenth Street, land facing the segment from Kalorama Road north to the first public alley leading west from Seventeenth is zoned RC/C-2-B; land north of that is zoned R-5-B. The former is being converted to an apartment building; the latter consists of now-vacant low rise apartment units that are projected for rehabilitation and occupancy under the auspices of Jubilee Housing.

- To the southeast, across Kalorama Road, the segment from Seventeenth Street to the public alley near the eastern limit of the Citadel site is zoned D/R-5-B; the segment from that alley east to Sixteenth Street is zoned R-5-D. Row houses line the entire western (D/R-5-B) segment. The balance (R-5-D) is used for a parking lot accessory to a nearby apartment building as well as several apartment buildings.

- To the southwest, diagonally across the intersection of Kalorama Road and Seventeenth Street, the zoning is also RC/C-2-B – the same as the zoning on the site of The Citadel and the portion of Seventeenth Street south of the public alley, as described above. The land is also being converted to an apartment house and provides space for a non-profit organization.

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The Citadel's existing building rises to a maximum height of just over fifty-five feet (55.1 ft.) at the crest of the arches supporting its domed roof. The lot, with 42,490 square feet, is just shy of one acre. The existing building occupies nearly ninety-six percent (95.7 %) of its lot within a zone district that now allows commercial uses to occupy the entire lot. The building does not provide, nor is it now required to provide, any side yard. As noted earlier, the present building does not provide any of the rear yard that has been required all along.

PROPOSED USES – WITH PARKING AS AN "ACCESSORY" USE ONLY

The building would have three distinct areas:

- The largest tenant would be a major grocery store to occupy nearly all of the building's existing main floor. All grocer sales activities would take place on that level; but with the principal entrance and exit for pedestrians and passenger vehicles using about one third of the level immediately below that.

- Commercial offices, possibly combined with other uses allowed by right, would be established within the volume of the dome over the existing main floor, with a total floor area that is about three fourths the area of the grocery store. This area would be reached though a combination of the existing building's main floor (a new entrance lobby at the east end of the existing property where an existing pedestrian entrance is located) and a new upper lobby that replaces an unattractive collection of storage rooms and mechanical penthouses at the east end of the project. It would also have emergency egress from its western limit, exiting to Seventeenth Street.

- An additional area within the building would again provide space for one or two other retail or service uses, or other allowed uses, spread across two floors, one entirely below grade. The area above grade is about ten percent of the square footage of the grocery store.

All three uses would have access to pre-existing parking or areas converted to parking on one or two levels, more than meeting current zoning regulations as to number of *required* spaces. The garage area would only be accessory to the principal uses and would not be an additional principal use. Thus, it would not be a public garage whose spaces might otherwise be available for storage of automobiles for employees of other area businesses, offices, valet services, area residents, or anyone not connected to one or more of the uses in the building as an owner, customer, or employee.

The existing enclosed two-berth loading dock would continue at its existing location along Seventeenth Street and would serve the grocery store. That area would continue to provide two loading berths, but increase their present depth from just over thirty feet to more than forty-one feet (41.0 ft.) and increase their non-conforming vertical clearance, which is now less than twelve feet (12.0 ft.), to more than the fourteen foot (14.0 ft.) present code requires for their entire, extended depth. Square footage now used for a ramp that leading up to the loading platform from the level of the loading berths would be allocated to a sealed trash dumpster and mechanical compactor.

The applicant would also request the District of Columbia Department of Transportation to relocate an existing loading zone, presently located along the southern segment of the building's frontage along Seventeenth Street north while "sliding" the automobile parking now allowed between it and the loading berth south. That loading zone would primarily serve the grocery store and, as needed, the other service or retail area described above. Applicant would propose that the hours this zone operate be limited to 7 a.m. to 4 p.m. weekdays and Saturdays, allowing residents with Residential Parking Program ("RPP") stickers to park there overnight and two and a half hours earlier in the afternoon than they may at this time weekdays.

Applicant would also propose four other changes along the abutting and facing segments of Seventeenth Street and Kalorama Road, matters that are ones to be decided by the District of Columbia Department of Transportation ("DC-DoT").

- Conversion of the present two-hour restriction applying to all parked vehicles weekdays on its side and portion of Seventeenth Street to allow longer term parking for those with appropriate RPP stickers. For this segment only, applicant would further propose that it assume the responsibility of cleaning the curb and street so as to eliminate the need to clear out both parking and loading areas during the months streets are mechanically cleaned. (Currently, the mechanical cleaning limits require vehicles relocate from 11 a.m. to 1 p.m. each Thursday for much of the year (no such cleaning occurs in winter months.)

- Conversion of the current two-hour spaces on the western side of Seventeenth Street to ones within the RPP system.

- Along the portion of Kalorama Road The Citadel faces, applicant would seek two other changes:

    - First, the applicant anticipates that the area of the building's major pedestrian exit will, of necessity, be established as a "No Parking, Entrance" area to be in effect from 7 a.m. until some point after each day's typical peak hours have passed, that hour to be determined by DC-DoT in consultation with other relevant licensing and safety officials.

    - The applicant would also seek DC-DoT's establishing new loading zone that would be located at the lobby entrance leading to the upper "office" area. This loading zone, serving offices, would restrict parking from 7 a.m. until 6:30 p.m. weekdays and Saturdays, but not on Sundays or holidays. The Saturday restriction might not be needed if the offices are not usually open that day of the week, something that cannot be established until the tenant(s) are established.

DEVELOPMENT OF THE SITE UNDER PRE-1958 ZONING REGULATIONS

The existing building dates from the mid-1940s, when it was built and mostly located within a then-existing and broadly permissive "Second Commercial" *use district*, in a "60-foot" *height district*, and in a "C" *area district* (that era's "area district" rules addressed minimum rear and side yards, open and "inclosed" courts, and maximum percentage of lot occupancy). The constraints of that era established the overall shape and form of the building which, significantly, did not face any controls on density as determined through limits on "gross square feet" or "floor area ratio."

The Citadel's five northernmost feet were built in land then zoned residential under a use variance granted by the Board of Zoning Adjustment in 1946, in BZA Case 1595.

The "C" area district allowed lot occupancy of the entire lot area for commercial uses if ten percent of the building's height did not exceed twenty feet (which is less than the height of the still-existing flat roof between the northern property line and the arched dome that accounts for somewhat more than ten percent of the total building's footprint on the lot).

Applicant cannot establish with certainty how the property demonstrated compliance with or overcame that era's requirements for rear yard, then ten feet for interior lots and fifteen feet for corner lots. Perhaps the original Citadel development satisfied then prevailing rear-yard requirements in an undeveloped portion of lot 9, namely its triangularly shaped part that extended seventeen feet (17.0 ft.) deeper from

along its eastern side from Kalorama Road than either its western side or the depth of two adjacent lots to the west of it (lots 10 and 11) in the "Second Commercial" zone classification. (That triangular area of land came to be part of the land of the Dorchester complex, apparently in exchange for the "five foot" (historic property diagrams suggest just 4.13 foot) strip that became part of the Citadel site now under consideration in this application.)

Record lot 36, the present lot, was created under a subdivision approved by the Office of the Surveyor March 15, 1979 (S. O. File 79-17). The same subdivision also created record lot 35, the record lot underlying the two current Assessment and Taxation lots on which the Dorchester apartment and pending Planned Unit Development exist or would be built.

The zoning regulations in effect when the building was built did not limit development by means of total square footage or any ratio of developed floor area to land area, concepts established and articulated since 1958 under specific definitions and interpretations of "gross square footage" and maximum "floor area ratio."

The Lewis Plan and the 1958 Zoning Regulations:

Although not originally developed under the "present" zoning regulations, it is important to understand how the changes that were instituted that year came into being and how they impact development of the current building.

The "present" zoning regulations were adopted by the Zoning Commission (then the Commissioners of the District of Columbia) following study of a major report prepared by consultant Harold M. Lewis. The 1958 "Lewis" plan's proposed Article 33 recommended regulating many aspects of "height" as well as "area and density, some of which were ultimately adopted and remain critical elements of the regulations fifty years later.

His plan consisted of four parts. Part I was an Introduction (with three sections). Part II set out "The Problem and How to Solve It" (with seven sections). Part II set out a "Summary of Proposed Zoning Regulations" (also with seven parts). Finally, Part IV set out the "Text of Proposed Regulations." His report's discussion of "Height and Bulk of Commercial Buildings" within Part II sets out the vision that came to be adopted, explaining the basis of current controls on density as well as bulk (pages 38-60).

He noted, at the outset that height restrictions had been imposed by the Congress in its 1910 Height Act and when it enacted the Zoning Act of 1920 and amended it in 1938, the latter authorizing the Zoning Commission to "write additional restrictions on height, as well as regulate areas covered by buildings and the uses of land and buildings." He continued, "Together, these three controls regulate the density or intensity of land use by determining the bulk of the buildings permitted and the type of activity for which they may be used." As implemented, Lewis found measures then in place allowed excessive density and also observed that while "... past height control was necessarily part of the bulk control, this need not be so," a precursor to the concept of floor area measurement and floor area ratios.

A few pages later, consultant Lewis lamented and discussed the absence of bulk controls in the following classic terms (quoted from page 44, emphasis added):

> The Greeks, the Egyptians, and the Sumerians before them in 3000 B.C., knew the geometrical principal that:
>
> height X width X depth = **volume** (or **bulk**)
>
> But the zoning regulations of Washington have sturdily ignored this ancient truth for the past 36 years.. That is, there have been separate standards for height, and for per cent-of-lot-occupancy ("coverage", "area," or width-times-depth), both of which were overly liberal, while the real need for a standard was the product of the two, **bulk** of building.

He found that then existing controls allowed buildings that were too large for the areas in which they were being built and set out to cure that with better controls on bulk, with separate controls on density, which he saw as a separate and distinct issue.

The following table shows what he proposed carry over from pre-existing controls, controls newly recommended, what survived then and still, and what was added and adapted as additional broad zone district classifications were established since 1958.

Types of Area and Density Controls Recommended in the Lewis Plan Adopted or Adapted in 1958 or Thereafter

	Area and Density Controls Adopted in 1958 and Retained Since For the Four Broad Zone District Classifications Recommended in the Lewis Plan, All of Which Were Adopted				Area and Density Controls Embraced within Zone Districts Created After 1958	
Area and Density Controls Recommended	**Residence (R)**	**Special Purpose (SP)**	**Commercial (C)**	**Industrial (CM and M)**	**Commercial Residential (CR, 1973)**	**Waterfront (W, 1974)**
Regulatory Controls First Recommended and Adopted in 1958						
Minimum Lot Area *(New in 1958, for Certain Residence Zones Only)*	**Adopted** *(for R-4 and more restrictive zone districts)*	n/a	n/a	n/a	n/a	n/a
Minimum Lot Frontage *(New in 1958, for Certain Residence Zones Only)*	**Adopted** *(for R-4 and more restrictive zone districts)*	n/a	n/a	n/a	n/a	n/a
Maximum Floor Area Ratio *(NEW in 1958)*	**Adopted** *(for R-5-A and more permissive zone districts)*	**Adopted**	**Adopted**	**Adopted**	**Adapted**	**Adapted**
Regulatory Controls Adopted Prior to 1958 and Retained Thereafter						
Minimum Rear Yard *(Carryover)*	Retained	Retained	Retained	Retained	Adapted	Adapted
Minimum Side Yard *(Carryover)*	Retained	Retained	Retained	Retained	Adapted	Adapted
Minimum Percentage of Usable Open Space / Maximum Percentage of Lot Occupancy *(Carryover)*	Retained	Retained	Retained	Retained	Adapted	Adapted
Minimum width of open and enclosed courtyards *(Carryover)*	Retained	Retained	Retained	Retained *(not as proposed, at "required windows")*	Adapted	Adapted
Minimum area of enclosed courtyards *(Carryover)*	Retained	Retained	Retained	Retained *(not as proposed, at "required windows")*	Adapted	Adapted

(The Lewis plan also proposed two other measures that were not adopted, these relating to setback from the centerline of facing streets and means to assure light reached a building's windows.)