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May 2, 2011

VIA HAND DELIVERY

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

Re: Application for a First-Stage Planned Unit Development, a Consolidated Planned Unit Development and a Zoning Map Amendment
Return to L'Enfant PUD (Center Leg Freeway) – Northwest, Washington,
Response to Comments to the Procedural Order Submission
Zoning Commission Case No. 08-34

Dear Members of the Commission:

On behalf of the Applicant in the above-referenced case, enclosed please find twenty copies of the Response to the Comments to the Procedural Order Submission required to be filed by the Procedural Order dated April 11, 2011. This letter responds to questions and comments raised by the Office of Attorney General, Office of Planning and Office of Zoning. In addition, the proposed conditions have been revised to reflect the clarifications and changes summarized below, and a copy of that document, with changes noted, is attached hereto.

Environmental Benefits

The Applicant's proffer includes a statement that the project will incorporate a water collection and re-use system, electrical co-generation plant, and eco-chimneys. Condition A-2 requires that the Consolidated PUD be developed substantially in accordance with the plans prepared by SOM, dated May __, 2011, in the record at Exhibit __ (the "Final Consolidated PUD Plans"). The Final Consolidated Plans, a conforming set of which will be submitted following final action to incorporate all approved elements of the project, include plans showing the locations proposed for these features. For example, Sheet 3.2 of the Updated First Stage PUD Plans dated March 25, 2011, shows the locations for the water storage/re-use system and MEP spaces designed

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to accommodate the electrical co-generation plant. Sheet 5.1 of the Updated Consolidated PUD Plans shows the location of the eco-chimneys. Thus, no additional condition is required.

The Applicant's proffer also states that project will achieve LEED Gold for the residential building. A similar condition to Condition B-18 will be incorporated in a future Second-Stage PUD order for the construction of the residential building.

Housing and Affordable Housing

The Applicant has agreed to provide affordable housing in accordance with the summary provided in the Procedural Submission. This commitment to affordable housing will be in place for forty years from the date that the first certificate of occupancy is issued for the residential building, as set forth in the revised Condition B-21. At the end of the forty year period, the affordable units will revert to market rate units. The project is exempt from Inclusionary Zoning because it will be zoned C-4.

Affordable units shall be provided in accordance with the provisions of the Affordable Housing Covenant, which is attached to the Land Disposition Agreement between the Applicant and the District. Section 2.1 of the Affordable Housing Covenant states that the affordable units shall be distributed across the housing mix (e.g., if the Market-Rate Units have a mix of 30% studios, 40% one-bedrooms, 30% two-bedrooms, the affordable units shall have a similar mix). Furthermore, Section 2.3.6 states that the affordable units shall not be concentrated on any one floor or within a floor of a building, without the approval of the Deputy Mayor for Planning and Economic Development, provided that affordable units do not need to be located on the top three levels of any building, have prime views or include bay windows or balconies. Accordingly, these two conditions have been incorporated into the revised Condition B-21.

Historic Preservation of Jewish Historical Society ("JHS") Synagogue

The Applicant's amenity for historic preservation of the JHS Synagogue relates directly to the relocation of the historic building to the corner of F and 3rd Streets, which allows for superior siting, more appropriate orientation, and enhanced visibility and access. The Applicant's amenity also includes providing land area within the South Block for additional museum and office space for the JHS. In order to achieve these amenities, the Applicant was required to enter into an agreement with the JHS. For clarification purposes, that agreement is not a part of the proffer, but it was required as a means to achieve the stated amenities. Thus, no condition is necessary relating to this separate agreement.

Questions were raised regarding the timing for Condition B-17 and Condition B-23. Condition B-17 has been modified to provide that the JHS Synagogue will be relocated to the corner of F and 3rd Streets in the South Block no later than sixty months following the issuance of a building permit for the construction of the platform and base infrastructure in the South Block. No modification is required to Condition B-23. Condition B-23 requires that the JHS museum and office space be provided "[f]ollowing approval by the Zoning Commission in the second stage PUD application and within the timeframes set forth therein." This timeframe provides the

specificity required. Specifically, a Second-Stage PUD application must be filed within ten years of the effective date of the First-Stage PUD order pursuant to Condition C-28. The Zoning Commission will then require that a building permit be issued and construction begin on that portion of the project within a timeframe specified in that Second-Stage PUD Order, which is typically within 2 and 3 years respectively of the effective date of the order. Given that the museum and office space must be reviewed and approved by the Zoning Commission and it must be done within the timeframes specified in Condition C-28, no additional timeframes are required to be included with this condition.

Holy Rosary Church

The Applicant's amenities relating to the Holy Rosary Church is the re-construction of the existing Annex and Rectory, both of which currently sit in the right-of-way of F Street, so that F Street can be re-opened. The reconstruction of these facilities will also re-establish the original relationship of the Church, the Annex, and the Rectory to the configuration that existed prior to construction of the freeway back in the 1960's. In order to achieve these amenities, the Applicant was required to enter into an agreement with the Holy Rosary Church. For clarification purposes and similar to that discussed above, that agreement is not a part of the proffer, but it was required as a means to achieve the stated amenities. Thus, no condition is necessary relating to this separate agreement.

A question was raised regarding the timing for Condition B-24 which states that the new facilities will be provided "following approval by the Zoning Commission in the second stage PUD application and within the timeframes set forth therein." No modification is required to Condition B-24. Similar to the rationale discussed above, this timeframe provides the specificity required. Specifically, a Second-Stage PUD application must be filed within ten years of the effective date of the First-Stage PUD order pursuant to Condition C-28. The Zoning Commission will then require that a building permit be issued and construction begin on that portion of the project within a timeframe specified in that Second-Stage PUD Order, which is typically within 2 and 3 years respectively of the effective date of the order. Given that Annex and Rectory must be reviewed and approved by the Zoning Commission and it must be done within the timeframes specified in Condition C-28, no additional timeframes are required to be included with this condition.

Technology Incubator Space

The Applicant has agreed to reserve a minimum of 5,700 square feet of gross floor area in the North Block to be devoted to space for technology incubators. The Applicant has also agreed to rent this space at below-market levels, equal to 50% of the average achieved rent charged for the third-floor office space in the North Block or, in the event that the third-floor office space in the North Block is vacant, equal to 50% of the asking rent for the third-floor office space in the North Block. The Office of Planning requested clarification that the base rent to be used is the third floor, not the second floor. Because the second floor is encumbered in certain locations, the rent associated with the third floor is a more accurate reflection of proposed rents for the office building overall.

Urban Design

The Office of Zoning requested additional information regarding Condition B-19 and the prohibition for bank use in the retail space fronting on Massachusetts Avenue, NW. The Office of Planning requested that the Applicant incorporate this prohibition in order to promote more active retail on this frontage. This condition will be enforced through the Zoning Administrator, who will not issue a certificate of occupancy for bank use for the retail space fronting on Massachusetts Avenue, NW.

Transportation

Condition B-15 requires the Applicant to incorporate and pay for a Capital Bikeshare Station within the project or the abutting public space. Because the Capital Bikeshare locations and installation are solely within the purview of the District Department of Transportation ("DDOT"), this condition must be tied directly to approval by DDOT. Accordingly, the condition as proposed is appropriate.

First Source and CBE

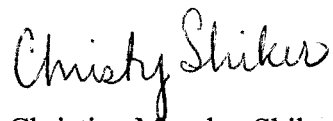
The Applicant has been asked whether the proposed First Source Agreement and commitment for an agreement relating to Certified Business Enterprises is required by law. The Applicant confirms that a First Source Agreement and agreement relating to Certified Business Enterprises are required by law, pursuant to the DC Council's approval of the disposition of land. However, the Applicant notes that the First Source Agreement, a copy of which is attached at Tab J to the PUD Submission, in the record at Exhibit 4, exceeds the statutory requirements with the commitment to hiring DC residents for 67% of the job openings for new apprentices.

As required in that Procedural Order, a copy of this Procedural Submission is being served on the Office of Planning, Office of Attorney General, and Advisory Neighborhood Commission 6C as set forth in the attached Certificate of Service.

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

Sincerely,

HOLLAND & KNIGHT LLP



Christine Moseley Shiker

Attachment

cc:	Rob Amos, ANC 6C PZE Chairman	(Via E-Mail; w/att)
	Jennifer Steingasser, Office of Planning	(Via E-Mail; w/att)
	Joel Lawson, Office of Planning	(Via E-Mail; w/att)
	Maxine Brown Roberts, Office of Planning	(Via E-Mail; w/att)
	Paul Goldstein, Office of Planning	(Via E-Mail; w/att)
	Jacob Ritting, Office of Attorney General	(Via E-Mail; w/att)

PROOF OF SERVICE

I hereby certify that on May 2, 2011, a copy of this Response to Comments to Procedural Order Submission was served on the following in accordance with the Procedural Order dated April 11, 2011:

Office of Planning
Attn: Jennifer Steingasser
1100 4th Street, SW
Suite E650
Washington, DC 20024

Via Hand Delivery

Office of Attorney General
Attn: Jacob Ritting
1100 15th Street, NW
Suite 800
Washington, DC 20005

Via Hand Delivery

Advisory Neighborhood Commission 6C
c/o Karen Wirt, Chairman
234 E Street, NE
Washington, DC 20002

Via Hand Delivery



Christine Moseley Shiker

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-34
Z.C Case No. 08-34
(First-Stage Planned Unit Development, Consolidated Planned Unit Development
and Related Zoning Map Amendment for Center Place Holdings LLC)
May __, 2011

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission orders **APPROVAL** of the application for a First-Stage PUD and the application for a Consolidated PUD for the following: (a) the entire platform and base infrastructure; (2) the mix of uses, the height and density of each building, and site plan for the Overall Project; (3) the North Block; (4) the construction of all below-grade parking, concourse and service levels; and (5) the landscaping and streetscape design for the Overall Project. The Zoning Commission also orders **APPROVAL** for the related Zoning Map amendment to rezone the Site from HR/C-3-C to C-4. This approval is subject to the following guidelines, conditions, and standards. Whenever compliance is required prior to, on or during a certain time, the timing of the obligation is noted in bold and underlined text.

A. PROJECT DEVELOPMENT

1. The Overall Project shall be developed substantially in accordance with the plans prepared by SOM, dated May __, 2011, in the record at Exhibit __ (the "Final First-Stage PUD Plans"), as modified by the guidelines, conditions, and standards herein.
2. The North Block and Consolidated PUD shall be developed substantially in accordance with the plans prepared by SOM, dated May __, 2011, in the record at Exhibit __ (the "Final Consolidated PUD Plans"), as modified by the guidelines, conditions and standards herein.
3. The Consolidated PUD shall include the following elements of the Overall Project: (1) the construction of the entire platform and base infrastructure; (2) the mix of uses, the height and density of each building, and site plan for the Overall Project; (3) the North Block; (4) the construction of all below-grade parking, concourse and service levels; and (5) the proposed landscaping and streetscape design for the Overall Project.
4. The Overall Project shall have an approximate gross floor area of 2,226,625 square feet, or 8.74 FAR based on the Site Area. As shown on the Final First-Stage PUD Plans, the Overall Project shall include approximately 1,910,386 square feet of gross floor area devoted to office uses, a minimum of 62,687 square feet of gross floor area devoted to retail uses, approximately 180,384 square feet of gross floor area devoted to residential uses, and approximately 73,168 square feet of gross floor area devoted to institutional uses related to the Holy Rosary Church and the Jewish Historical Society.

5. The North Block shall have an approximate gross floor area of 957,700 square feet, or 8.91 FAR based on the land area of the North Block. As shown on the Final Consolidated PUD Plans, the North Block shall include approximately 935,636 square feet of gross floor area devoted to office uses and approximately 22,064 square feet of gross floor area devoted to retail uses.
6. The lot occupancy of the Overall Project shall be a maximum of 89% based on the Site Area. The lot occupancy of the North Block shall be a maximum of 84% based on the land area of the North Block.
7. The maximum height of the structures in the Center and South Blocks shall be 130 feet, as shown on the Final First-Stage PUD Plans. The maximum height of the structures in the North Block shall be 130 feet, as shown on the Final Consolidated PUD Plans.
8. The Overall Project shall include approximately 1,146 parking spaces in the below-grade, consolidated parking area, with access as shown on the Final Consolidated PUD Plans.
9. The Overall Project shall include one 55-foot loading berth with one 200 square foot platform, eight 30-foot loading berths with eight 100 square foot platforms, and four service delivery spaces, all within the below-grade loading facility and with access as shown on the Final Consolidated PUD Plans.
10. 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, atria and mechanical rooms, provided that the variations do not change the exterior configuration of the building.
 - b. To make refinements to the garage configuration, including layout, parking spaces and other elements, so long as the total number of parking spaces provided meets the number of spaces required by the PUD approval.
 - c. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of materials.
 - d. To vary the location, attributes and general design of the public spaces and streetscapes incorporated in the project to comply with the requirements of and the approval by the District Department of Transportation Public Space Division, including but not limited to the street, sidewalk and roadway widths within the rights-of-way proposed.
 - e. To locate retail entrances in accordance with the needs of the retail tenants and vary the façades as necessary within the general design parameters proposed

for the project and to locate retail or service uses where "retail" is identified and to locate retail, service or office uses where "retail/office" is identified.

- f. To vary components of the project to coordinate or comply with modifications to the I-395 ramp systems resulting from the environmental review process required by the National Environmental Policy Act, including but not limited to modifications to ramp systems and freeway configuration, so long as such changes do not change the exterior configuration of the buildings or modify the site plan for the Overall Project.
- g. To make minor refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, window mullions and spacing, or any other changes to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit or any other applicable approvals.

B. PUBLIC BENEFITS

- 11. **Prior to the issuance of a building permit for construction of the platform**, the Applicant shall donate \$50,000 to Casey Trees for improvements to the existing park at 2nd and H Streets and Massachusetts Avenue, located immediately to the north of the Site in accordance with the letter dated December 28, 2010, attached at Tab 10 to the Post-Hearing Submission in the record at Exhibit 47.
- 12. **The Applicant shall submit with its building permit application** a checklist evidencing that the portion of the project for which the permit is submitted has been designed to meet USGBC LEED Platinum standard for the core and shell of the office buildings or LEED Gold standard for the residential building.
- 13. **During construction of the project**, the Applicant shall abide by the First Source Employment Agreement attached at Tab J to the PUD Submission, in the record at Exhibit 4, under which the Applicant has agreed to fill 51% of all new jobs resulting from the construction of the project with District residents and to fill 67% of all new apprenticeship positions with District residents.
- 14. **During construction of the project**, the Applicant shall abide by an agreement that provides for Certified Business Enterprises to represent twenty percent of the developer's equity and development participation in the project and that provides for the Applicant to contract with Certified Business Enterprises for at least 35% of the contract dollar volume of the project.
- 15. **Prior to the opening of G Street through the project and subject to approval by the Public Space Division of the District Department of Transportation if required**, the Applicant shall incorporate a Capital Bikeshare Station to be paid for by the Applicant within the project or the abutting public space.

16. **Upon completion of construction of the platform and base infrastructure and upon acceptance by the District Department of Transportation,** the Applicant shall re-open F and G Streets and the streetscape surrounding the Site, as shown on the Final Consolidated PUD Plans, subject to final approval by the Public Space Division of District Department of Transportation, as required.
17. **Following completion of**~~No later than sixty months following the issuance of a building permit for the construction of the platform and base infrastructure in the South Block,~~ the Applicant shall relocate the historic Adas Israel Synagogue, containing the Jewish Historical Society of Greater Washington's Lillian & Albert Small Jewish Museum, from its current location at the northeast corner of 3rd and G Streets to the southeast corner of 3rd and F Streets.
18. **Within 180 days following the issuance of a final certificate of occupancy for the core and shell of the North Block building,** the Applicant shall submit all required paperwork to USGBC to apply for USGBC Platinum certification for the core and shell of the North Block and provide a copy to the Zoning Administrator.
19. **During the life of the project,** the Overall Project shall include a minimum of 62,687 square feet of gross floor area devoted to retail uses generally in the locations shown on the Retail Diagram attached as Sheet ___ of the Final First-Stage PUD Plans. The North Block shall include available ceiling heights as shown on the 1st Floor Plan - Retail Heights - North Block attached as Sheet ___ of the Final Consolidated PUD Plans. In order to encourage retail uses that will maximize activity along Massachusetts Avenue, the Applicant will not locate banks in the retail space fronting on Massachusetts Avenue.
20. **During the life of the project,** the Applicant shall provide a Transportation Management Program for all office tenants, as set forth in Supplemental Report to the Transportation Impact Analysis attached at Tab 4 to the Supplemental Prehearing Submission in the record at Exhibit 30.
21. **For a period of forty years from the date that the first unit incertificate of occupancy is issued for the residential building is occupied,** the Applicant shall provide a minimum of fifty residential units set aside for affordable housing for individuals earning no more than 80% of the Metropolitan Statistical Area median and paying no more than 30% of the family's household income for rent or housing ownership costs. The affordable housing units shall be distributed across the housing mix (e.g., if the market-rate units have a mix of 30% studios, 40% one-bedrooms, 30% two-bedrooms, the affordable units shall have a similar mix). In addition, the affordable housing units shall not be concentrated on any one floor or within a floor of the residential building, without the approval of the Deputy Mayor for Planning and Economic Development, provided that the affordable housing units do not need to be located on the top three levels of the residential building, have prime views or include bay windows or balconies.

22. **For a period of ten years following the issuance of a certificate of occupancy for the North Block**, the Applicant shall reserve a minimum of 5,700 square feet of gross floor area in the North Block to be devoted to space for technology incubators. The Applicant shall rent this space at below-market levels, equal to 50% of the average achieved rent charged for the third-floor office space in the North Block or, in the event that the third-floor office space in the North Block is vacant, equal to 50% of the asking rent for the third-floor office space in the North Block. The space for technology incubators may be located in any of the ground floor space along G Street so long as it totals a minimum of 5,700 square feet, fronts on G Street and is rented at the proposed reduced rent.
23. **Following approval by the Zoning Commission in a second-stage PUD application and within the timeframes set forth therein**, the Applicant shall provide ~~an~~land area within the South Block to accommodate museum space and additional office and supporting space for the Jewish Historical Society, generally as shown on the Final First-Stage PUD Plans.
24. **Following approval by the Zoning Commission in a second-stage PUD application and within the timeframes set forth therein**, the Applicant shall construct new facilities for the Holy Rosary Church within the Center Block, generally as shown on the Final First-Stage PUD Plans.

C. MISCELLANEOUS

25. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner of the Site and the District of Columbia, that is satisfactory to the Office of the Attorney General and DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.
26. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
27. The Consolidated PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit for the construction of the platform and base infrastructure as specified in 11 DCMR § 2409.1. Construction of the platform and base infrastructure shall begin within three years of the effective date of this Order. Within two years of the completion of the construction of the platform and base infrastructure, the Applicant shall apply for a building permit for the construction of the North Block. The Applicant shall commence construction of the North Block within four years of the completion of the construction of the platform and base infrastructure.
28. The First-Stage PUD Approval for the Overall Project shall be valid for a period of five (5) years from the effective date of this Order. Within such time, a second-stage PUD

application must be filed for an additional portion of the project. Second-stage PUD applications must be filed for all of the remaining portions of the project no later than ten years from the effective date of this Order. These second-stage applications may be submitted individually, at the same time, or in any combination thereof.

29. 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 D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (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 which 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.

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