

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 11-03B
Z.C Case No. 11-03B
Hoffman-Struever Waterfront, LLC
(Second-Stage Planned Unit Development)
Southwest Waterfront
PARCEL 5
May 13, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 28, 2013, to consider applications for a second-stage Planned Unit Development ("PUD") filed by Hoffman-Struever Waterfront, LLC, (the "Applicant") on behalf of the District of Columbia, through the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), the current owner of the property. The project site is generally bounded by the Washington Channel of the Potomac River and Maine Avenue, between 7th Street on the east and the area to be known as "Jazz Alley" on the west, all in Southwest Washington. The Commission approved the Stage 1 PUD application for this project by order dated December 16, 2011, in Z.C. Case No. 11-03. The Commission approved the first Stage 2 PUD application in four separate orders for the portion of the project site known as Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, the Transit Pier, the District Pier, the Yacht Club Piazza, the Mews, Jazz Alley, 7th Street Park and Waterfront Park, as well as temporary uses on Parcel 1. (See Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4) issued February 11, 2013, and published in the *D.C. Register* on February 25, 2013.) The Commission considered this second-stage PUD application for Parcel 5 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 application for Parcel 5.

FINDINGS OF FACT

The Applications, Parties, and Hearings

- 1 On September 24, 2012, the Applicant filed an application with the Commission for second-stage review and approval of a PUD for Lots 84 and 831 in Square 473, part of Lot 839 in Square 473, and portions of Water Street to be closed, consisting of approximately 60,189 square feet of land area ("Property"). The Property is presently improved with improvements constructed under the Southwest Urban Renewal Plan for

the Southwest The Applicant intends to redevelop the Property consistent with the Stage 1 PUD approval order issued December 16, 2011.

- 2 By report dated October 19, 2012, the Office of Planning (“OP”) recommended that the application be set down for a hearing At its public meeting held on November 14, 2013, the Commission voted to schedule a public hearing on the application
- 3 On December 14, 2012, the Applicant submitted its pre-hearing statement and on February 8, 2013, submitted its supplemental information for the project, along with several architectural drawings to respond to issues raised by the Commission and OP.
- 4 A description of the proposed development and the notice of the public hearing for this matter were published in the *D C Register* on January 11, 2013 The notice of public hearing was mailed to all property owners within 200 feet of the PUD Site as well as to Advisory Neighborhood Commission (“ANC”) 6D On February 28, 2013, the Commission held a hearing to consider the Parcel 5 PUD application
- 5 The parties to the proceeding were the Applicant, ANC 6D, and the Gangplank Slipholders Association (“GPSA”)
- 6 At the hearing, the Applicant presented five witnesses in support of its application Matthew Steenhoek, on behalf of Hoffman-Struever Waterfront, LLC, Andrew McIntyre of the JBG Companies on behalf of SW Waterfront, LLC, the hotel, Andrew Rollman, SmithGroup JJR architectural firm, and Robert Schiesel, Gorove/Slade Associates, transportation consultant Based upon their professional experience and qualifications, Mr Rollman was qualified as an expert in architecture and Mr Schiesel was qualified as an expert in transportation engineering and planning
- 7 Jennifer Steingasser, Deputy Director for Development Review and Historic Preservation of OP, Matthew Jesick, Development Review Specialist at OP, and Jamie Henson of the District’s Department of Transportation (“DDOT”) testified in support of the application with certain comments and conditions
8. At its meeting on February 11, 2013, which was duly noticed and at which a quorum was present, ANC 6D voted 7-0 to support the applications, with conditions
- 9 Ron McBee, the single member district representative for ANC 6D03, and Richard Westbrook each testified as a person in support of the Parcel 5 PUD The Commission received letters in support from the Disabled American Veterans, Riverside Baptist Church, and Arena Stage.
- 10 At the conclusion of the hearing on this matter, the Commission requested the Applicant to submit additional architectural drawings showing alternative designs for the penthouse

embellishments along Maine Avenue, the proposed 7th Street Stair, a new stair along the Wharf to the second floor courtyard, proposed window treatments for the hotel, and a written response to each issued raised by OP. The Applicant submitted the requested information to the Commission on March 21, 2013 (Exhibit ["Ex "] 34, 34A, and 34B). The Commission also requested the Applicant to submit a bus management plan in coordination with the ANC prior to final action on the application. That information was submitted on May 6, 2013 (Ex 44).

- 11 On April 8, 2013, the Commission took proposed action to approve with conditions the Parcel 5 PUD application.
- 12 The application referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan. On May 7, 2013, NCPC recommended that the project would not be inconsistent with the Comprehensive Plan for the National Capital.
- 13 The Commission took final action to approve the Parcel 5 PUD on May 13, 2013.

The Southwest Waterfront Project

- 14 The Southwest Waterfront project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement ("LDA") for its development. The District of Columbia, as owner of all the property in the PUD site except for Lots 83 and 814 in Square 473, the Vestry of St Augustine's Church, the owner of Lots 83 and 814 in Square 473, and Hoffman-Struever Waterfront, LLC, the master developer selected by the City to implement the project, submitted their application for approval of a second-stage PUD to fulfill the revitalization plan envisioned by the city to reactivate the Southwest Waterfront. The project site fronts on the Washington Channel in Southwest Washington and is generally bounded on the northwest by the Maine Avenue Fish Market and Case Bridge (part of the highways comprising the 14th Street Bridge), Maine Avenue to the northeast, Washington Channel to the southwest, and on the southeast by N Street, S W and 6th Street, S W.
- 15 Pursuant to the Stage 1 PUD approval, the entire project will include an aggregate floor area ratio ("FAR") of 3.87, which excludes the private streets in the project area, or approximately 3,165,000 square feet of gross floor area. Proposed uses will include approximately 1,400 mixed-income and market rate residential units, with 160,000 square feet of the gross residential space set aside for households earning no more than 30% and 60% of the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area Median Income ("AMI"), approximately 925,000 square feet of office space, a luxury hotel with a total of 278 guest rooms, and two additional hotels with approximately 405 rooms, approximately 300,000 square feet devoted to retail uses, a minimum of 100,000 square feet devoted to cultural activities, and more

than 10 acres of parks and open space on the land side. The riparian area will feature four public or public use piers, as well as approximately 80,000 square feet of maritime-related commercial, recreational, and service development.

- 16 The Commission approved the first Stage 2 PUD application for the Southwest Waterfront on February 11, 2013 in Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3) and 11-03A(4), which proposed the development of six buildings on Parcels 2, 3, 4, and 11. This first phase of the project also encompassed the creation of new public and open spaces known as the Wharf, The Transit Pier, the District Pier, the Piazza Mews, the Avenue Mews, the Pier Mews, and Jazz Alley (collectively the "Mews"), the Yacht Club Piazza, the 7th Street Park, and Waterfront Park. Parcel 1 is also to be improved with a temporary parking lot/event space.
- 17 The Parcel 5 PUD, which is part of Phase I of the Southwest Waterfront, proposes the development of an extended-stay and limited-service hotel combination. It will provide approximately 258,479 square feet of gross floor area devoted to hotel uses and approximately 42,000 square feet of gross floor area devoted to retail and service uses.

The Applicant and Development Team

- 18 The master developer and Applicant of the overall PUD project is Hoffman-Struever Waterfront, LLC. The Applicant is processing this Stage 2 application on behalf of DMPED. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development and Triden Development, as well as District-based and CBE-certified CityPartners.
- 19 The hotel on Parcel 5 will be developed by SW Waterfront, LLC, an affiliate of the JBG Companies.

Approved Stage 1 PUD Development Parameters

- 20 Under the Stage 1 PUD, the Commission approved the parameters for the development of the Southwest Waterfront, as shown on the architectural plans submitted to the record. The PUD order authorizes a landside density of 3.87 FAR, excluding private rights-of-way, with a combined gross floor area of approximately 3,165,000 square feet. Waterside uses may have a maximum potential density of 0.68 FAR, or 114,000 square feet of gross floor area. (See Z.C. Order No. 11-03 at 33 (Condition Nos. A-1 and A-2).)
- 21 The Commission authorized a maximum building height of 110 feet on Parcel 5, which was rezoned to the C-3-C Zone District.

- 22 With respect to parking facilities for the project, the Commission authorized the construction of one or more below grade parking structures on two to three levels that are required to provide spaces for approximately 2,100-2,650 vehicles. The PUD project is also required to provide parking or storage for 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the site. The precise amount of parking and loading is to be determined in each Stage 2 PUD application (*Id.*)
- 23 Consistent with the phased development endorsed by the Commission, the Parcel 5 PUD will be developed with an extended-stay and limited service hotel combination with approximately 405 rooms. The ground floor will include retail/service uses. The mass of the building consists of a one-story base with a U-shaped hotel tower configuration above, rising to a maximum building height of 110 feet in eight to nine stories.

Overview of the Southwest Waterfront

- 24 The Southwest Waterfront PUD has been designed to reunite the city with the water's edge and re-enliven it with a mix of uses and year-round urban vibrancy. The concept is to bring the city's unique urban qualities of buildings with street walls and dynamic public open spaces to this area, while recalling the thriving commercial aspects of the historic working waterfront that once lined the Washington Channel. This working wharf once connected the upland city streets to the maritime edge, and was characterized by an industrial warehouse district with a focus on maritime activities.
- 25 As described during the approved Stage 1 PUD, the new development will provide a mix of uses to ensure an active waterfront throughout the year, day and night. The PUD has been designed as a series of "places," not projects. Each place is the integration of architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
- 26 The plan for the waterside has been fully integrated with the land plan. The project will incorporate four new public use piers along the Washington Channel, allowing public-use access into the Channel for the first time. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. A host of other tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide much more activity and many more reasons for the public to use the waterfront and engage in water sports and activities. The waterside development will extend to the limit of the federal navigational channel.

Parcel 5 Proposed Development

Design Overview

- 27 Parcel 5 of the Southwest Waterfront development frames the western edge of the prominent 7th Street Park and public pier. It will serve as a gateway to the newly developed Wharf Street along the edge of the Washington Channel. The primary views from the site are looking east toward the 7th Street Park and south toward the Wharf, the Washington Channel and Haines Point. Secondary views to the west along Mews Alley and to the north along Maine Avenue offer vistas back to the city and monumental core. These views to and from Parcel 5 were instrumental in the development of the buildings massing.
- 28 The U-shaped building sits on a 20-foot tall retail/service plinth and rises another 90 feet with hotel guest room floors and amenity space, a limited-service hotel and an extended-stay hotel. The east portion of the building is occupied by the nine-story extended-stay hotel with 160 guest rooms. The north-south rectilinear bar is articulated into four slightly canted bays creating a nautically inspired saw-tooth expression optimizing views to the river and park. The modern glass and metal panel facade will provide a serene backdrop to the 7th Street Park.
29. Across the internal courtyard and plaza is the eight-story limited-service hotel, which frames the northern and western edges of the development. The 245-guest-room hotel is composed of a glass facade with articulated horizontal mullions evoking a modern interpretation of the type of industrial windows that would be historically found on the waterfront. The facade has been set back from the Mews in order to enhance the views and provide a series of outdoor terraces at the Plaza level. A simple inflection in the building facade further breaks down the overall massing and improves the sight lines to the southwest toward the water. The north bar of the limited-service hotel is setback from the Maine Avenue property line and extends east to the extended stay hotel. Amenities for both hotels are located at the second floor plaza level. This level is enclosed in glass curtain wall to reduce the building's massing and create a transparent expression through the facade that allows the guest rooms to float above. The elevators and mechanical equipment for the hotel have been arranged so that a penthouse structure is not required for the north bar.

Outdoor Elevated Courtyard, Wharf Stair and 7th Street Stair

- 30 At the heart of the Parcel 5 development is a large outdoor, publicly accessible courtyard and plaza area at the second level, which is easily accessible via the hotel lobbies or exterior staircases from 7th Street and the Wharf. A variety of hotel amenities, outdoor activities and food & beverage options will activate this elevated courtyard plaza space. A small portion of the courtyard area will be reserved exclusively for use by the extended

stay hotel guests The remainder of the outdoor area will be accessible to public, including the hotel pool, which may charge a fee to non-hotel guests Signage at the exterior Wharf stair and 7th Street stair will direct the public to the upper plaza level

- 31 Although not included with the original PUD submission, the Applicant modified its plans to provide the second exterior public stair to the courtyard along the Wharf in response to comments from OP and the Commission (Ex 34A) The stair incorporates illuminated risers to provide visibility and pedestrian safety and offers a visual indication that the stair is a gateway to the publically accessible space above. Signage has been introduced on the south side of the stair to direct pedestrians to the internal courtyard and to the accessible route via elevator This second stair greatly enhances the vantage points and places where the public can enjoy, free of charge, elevated views over the Washington Channel It further activates surrounding pedestrian areas and serves as an additional attraction for visitors to the Wharf.
32. The Applicant also modified the treatment of the 7th Street Park Stair in response to OP and Commission comments As originally designed, most of the stair was covered by the floor plate of the hotel above As revised, the area was opened up, with a "sky bridge" overhead to maintain a hotel corridor The openness is more inviting, increases visibility and enhances pedestrian safety by eliminating the somewhat secluded nature of the previous design. Signage was introduced on both sides of the stair to direct pedestrians to the internal courtyard above and to the accessible route via elevator The finish materials of the "sky bridge" are transparent glass walls and a back-lit underside soffit providing increased lighting to the stair and a visual indication that the stair is a gateway to the public space above

7th Street Retail Design Guidelines

- 33 Storefront guidelines will be instituted in order to provide a more pleasing aesthetic for the retail frontages adjacent to the hardscape elements of the 7th Street Park, which was previously approved by the Commission in Z.C. Order No. 11-03A(3). Restaurants, cafes and retail shops will be strongly encouraged to use landscaping methods to express brand identity beyond the storefronts by adding landscaped vessels, potted shrubs and trees, colorful plantings and seasonal retail window boxes These mechanisms will add color and texture to the storefront design and create a visual connection to the parks and green spaces of the overall PUD

Maine Avenue Penthouse Embellishments

- 34 In response to comments received from OP and the Commission, the Applicant restudied its treatment of the penthouse embellishments at the Maine Avenue façade In order to create a lighter appearance and reduce the visual weight of the design, the solid caps of each of the embellishments were reduced in mass by the introduction of glass The

embellishments will be open to the sky, allowing natural light to penetrate through the top and reinforcing their more subtle expression. These changes successfully resolve the issues raised by the Commission and OP.

Parking and Loading Facilities

35. Parcel 5 will include its own below grade parking garage that will be separate and distinct from the shared parking facility under Parcels 2, 3, and 4. The Parcel 5 garage will be located on two levels below grade, and will provide spaces for 200-287 automobiles and 34 bicycles. The range in the number of parking spaces is dependent on whether an additional half level of parking is constructed. DDOT expressed comfort with the range of spaces based on the Applicant's commitment to the Transportation Demand Management ("TDM") program. The garage will be accessed from a covered east-west "service alley" that bisects the ground floor of the building. Refrigerated trash and recycling rooms are located along the periphery of this interior service space.
36. Loading facilities are also located off the service alley, and will consist of three loading berths, two service spaces, and a loading dock. The Applicant requested relief from the loading requirements, as discussed in greater detail elsewhere in this order.
37. The Applicant will implement restrictions and guidelines on loading operations to ensure coordination on deliveries to the buildings, as set forth in the transportation technical memorandum (Ex 17B).

Sustainable (LEED) Development

38. The Applicant has developed guidelines to ensure that the vertical development of this Stage 2 application has been designed in accordance with LEED-ND Gold objectives, in order to meet individual certification requirements and to comply with the overall larger framework of LEED-ND criteria. (See Z.C. Order No. 11-03, at 36 (Condition No. B-7)). Consistent with the Stage 1 PUD approval, the Parcel 5 development will achieve a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or higher. The building has also been designed to meet the LEED stormwater requirements in conformance with the certification process sought for each building.
39. The Land Disposition Agreement between the Applicant and DMPED requires the overall Southwest Waterfront PUD to incorporate sustainable design criteria and pursue LEED 2009 for Neighborhood Development (LEED ND) certification by the Green Building Certification Institute ("GBCI") at the Gold-level or higher. LEED certification at the target level requires compliance with and documentation of all prerequisites and between 60 and 79 points.

- 40 In keeping with the approved Stage 1 PUD and the LDA, the overall project is designed and developed in its entirety to meet the requirements of the D C Green Building Act of 2006 that came into effect March 8, 2007. The Parcel 5 building will pursue LEED certification with the GBCI at the Silver level or higher in compliance with the appropriate individual building certification system, New Construction (NC), Core & Shell (CS), or Commercial Interiors (CI).

Project Association

- 41 The Applicant will create and manage a project association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks, and signage, within the PUD boundaries ("Project Association"). The Applicant will manage and operate the Project Association during the "developer control period," as defined in the Applicant's Declaration of Covenants with the District of Columbia required by the LDA. The developer control period begins upon the effective date of the Declaration of Covenants and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit. The project association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance ("CAM") assessment charge to each development component within the PUD. Additionally, the project association will be responsible for programming and staging events within the PUD.

Certified Business Enterprises

42. The Applicant has entered into a Certified Business Enterprise ("CBE") Agreement, with the D C Department of Small and Local Business Development ("DSLBD") in order to achieve, at a minimum, a 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD.
- 43 In addition to the CBE requirement, the Applicant has committed that 20% of the retail space for the Parcel 5 development will be set aside for "unique" and/or "local" businesses, which will include CBEs. As defined under the LDA, a "local" business is a retailer that is either a CBE or a retailer headquartered in the District of Columbia. A "unique" business is a retailer owning or operating fewer than eight retail outlets in the aggregate at the time such retailer enters into a retail lease at the PUD (inclusive of such retail outlet at the PUD). The Applicant will work collaboratively with business and community organizations throughout the District to identify and, where possible, mentor potential small restaurateurs and retailers to help them lease and successfully operate these retail spaces. The Applicant will also have kiosks along the promenades, and in parks and other public spaces, where even smaller local businesses can try out their retail concepts on a low-risk basis. Those kiosk operators who are successful may have the

opportunity to move indoors, into one of the spaces reserved for unique and local business enterprises, thereby growing their business

First Source Employment Opportunity

- 44 The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services (See Ex 209 in Z C. Case 11-03A) to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the PUD project Prior to issuance of a building permit for any construction of Parcel 5, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project The Applicant shall meet the First Source Employment Agreement requirement that 20% of new jobs will be filled by Ward 8 residents, and that good faith diligent efforts will be made to hire residents of Southwest Washington Thirty percent of apprenticeship opportunities will be filled by residents residing east of the Anacostia River The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D C Students Construction Trades Foundation, which is an affiliate of the Academy of Construction and Design at Cardozo, and other training and job placement organizations to maximize participation by District residents in Phases of the PUD construction

Workforce Intermediary Program

- 45 Consistent with the Stage 1 PUD approval, the Applicant has committed to contributing \$1 million to the District's Workforce Intermediary Program. At the time of the Stage 1 PUD approval, the Applicant had already paid \$250,000 of that commitment. The Applicant is funding the remaining \$750,000 as part of the Stage 2 PUD for Parcels 2, 3, 4, and 11

Development Incentives and Flexibility

- 46 Roof Structures Setbacks In accordance with 11 DCMR § 411.11, the Applicant seeks relief from the penthouse setback requirements under § 770.6 of the Zoning Regulations The relief is necessary due to the narrow floor plate of the hotel while at the same time encompassing both the elevator overruns and mechanical equipment within a single, aesthetically pleasing, structure The narrow floor plate of the hotel program requires the elevators hoistways to be placed off-center and, when restricted to the 1:1 setback requirement, limits the available floor area for equipment The footprint of the penthouse enclosure, as indicated on Pages 142 and 143 of the drawings, is required to house the mechanical equipment and is not intended for the occupations of space The height of the penthouse enclosure is compliant with the regulation and will not adversely affect the light and air of the adjacent buildings

- 47 *Loading Facilities* The Parcel 5 building generates a requirement for two loading berths at 55 feet each, two loading berths at 30 feet each, two service/delivery spaces at 20 feet each, and two platforms at 300 square feet each. Relief is requested for the project to provide instead three 30-foot loading berths, two 20-foot service/delivery loading spaces, and a 600-square-foot loading platform.
- 48 *Vehicle Parking*. The Parcel 5 building will provide a minimum of 162 spaces, in compliance with the zoning requirement. The Applicant nevertheless seeks flexibility to build another half level of parking and provide a range in the number of parking spaces from 200 to 287 spaces, in response to demand. The TDM measures to be implemented as part of the PUD will ensure that any negative impacts generated by the increased number of spaces can be mitigated. The Commission finds the flexibility is warranted in consideration of the potential parking demand for the overall Southwest Waterfront project and the TDM measures.
- 49 No other zoning relief or flexibility was requested or is granted through this Order.

Office of Planning Report

- 50 By report dated February 15, 2013, OP indicated its support of the project and requested the Applicant to provide additional information with respect to (i) public access to the second level courtyard, (ii) the rationale for removing an access stair from the Wharf to the courtyard in an earlier design but one that the Commission had never seen, (iii) the possibility of reinstating the Wharf stair; (iv) modifying the design of the stair at 7th Street to be more inviting, (v) improving the landscaping at the 7th Street Park, (vi) an explanation of the loading facilities for the retail space fronting on the Wharf, (vii) information on vehicle idling and bus movements, (viii) correcting the building height referenced on certain drawings, (ix) the potential for even minimal penthouse setbacks at the courtyard elevations of the building, (x) external building lighting; and (xi) the quantity of unique or local retailers at Parcel 5. The Applicant fully responded to these issues through supplemental information at the hearing and in post-hearing submissions dated March 21, 2013 (Ex 34). The responses are reflected throughout this order. OP filed a supplemental report dated March 21, 2013 indicating its support for the Applicant's responses (Ex 33).

DDOT Report

- 51 DDOT submitted a memorandum, dated February 19, 2013, in support of the PUD, with several recommendations. DDOT concluded that, after an extensive multi-administration review, that any adverse effects of the Parcel 5 development can be mitigated based on (i) the mitigations proffered for the Phase I PUD (Z C Order Nos 11-03A(1), 11-03A(2), 11-03A(3) and 11-03A(4)), of which Parcel 5 is a part, and (ii) additional measures

specific to Parcel 5. These include installation of showers for hotel employees that commute by bike, employment of market-based pricing for on-site hotel/retail parking, designation of a hotel staff member as a TDM coordinator, and provision of a kiosk in each hotel lobby that contains information on the non-vehicular transportation alternatives to the Parcel 5 PUD.

52. DDOT also recommended, and the Applicant agreed, to limit the size of delivery trucks to 30 feet in length. With respect to bus traffic and vehicle idling, the Applicant will implement the Bus Management Plan. (Ex 44)
53. Based on the TDM and Loading and Curbside Management Plan submitted in Z.C. Case No. 11-03A that will govern the entirety of the Southwest Waterfront PUD, and the commitments made by the Applicant in its updated transportation analysis (Ex 17B and 17C), the Commission finds that any potential adverse transportation impacts that may arise can be detected, monitored, and addressed quickly and efficiently.

ANC Report

54. On February 11, 2013, ANC 6D voted 7-0-0 to support the Parcel 5 development, on the condition that the Applicant and the ANC develop a satisfactory bus management plan. The purpose of the bus management plan would be to mitigate the effect of loading and unloading of busses directly adjacent to exterior restaurant and retail operations and minimize the impact upon the enjoyment of visitors to the previously approved 7th Street Park. The Commission left the record open to receive such a plan prior to final action on the PUD.
55. On May 6, 2013, the Applicant submitted its bus management plan as endorsed by the ANC. It provides that the Applicant will maintain an ongoing relationship with ANC 6D to manage the bus traffic for groups visiting the hotels located on Parcel 5, and lists several methodologies that the Applicant will follow to manage the arrival, loading/unloading, departure, and parking for busses.
56. With respect to the PUD design, the ANC greatly supported the general architectural expression of the building, noting that several ANC members found it to be the most attractive thus far in the Southwest Waterfront development. The ANC recommended conditions in the order to ensure that the retail in the hotels does not cater just to the needs of temporary hotel residents and that the courtyard be open to the public. The ANC also agreed with OP's recommendation for a Wharf stair to the courtyard and noted that the proposed 7th Street stair is not an adequate substitute, based on its initial design.
57. The Commission concurs with the views of the ANC with respect to ensuring a broad range of retail and service uses and public access to the courtyard through conditions in the order. The Commission is satisfied that the bus management plan submitted by the

Applicant on May 6, 2013 and endorsed by the ANC will mitigate the effect of loading and unloading of busses directly adjacent to exterior restaurant and retail operations and minimize the impact upon the enjoyment of visitors to the previously approved 7th Street Park

- 58 The Commission accords great weight to the views of the ANC and finds that the Applicant has responded appropriately to each issue raised

Commission of Fine Arts

59. The U.S. Commission of Fine Arts ("CFA") reviewed the conceptual plans for the Parcel 5 PUD pursuant to its authority under the Shipstead-Luce Act. CFA recommended concept approval of the Parcel 5 building by letter dated June 28, 2012 (Ex 12A)

Gangplank Slipholders Association

- 60 GPSA testified at the hearing as a party in support of the Parcel 5 PUD, stating that the proposed hotel, along with its retail and restaurant uses, would enliven a long-neglected part of the Southwest waterfront. GPSA complemented the architectural design of the building, which would present an open view to and from the Washington Channel. GPSA expressed continuing concerns, however, with respect to noise from the courtyard and potential lighting impacts to the live-aboard vessels in the marina. GPSA also claimed that the bifurcation of the PUD into separate phases had deferred significant elements of the program, including parking for boaters and visitors, service access and circulation from marina access. GPSA urged the Commission to revisit these issues in the subsequent Stage 2 PUD application for the redesign of the Gangplank Marina.
- 61 The Commission noted at the hearing, and GPSA agreed, that most the concerns raised by GPSA were addressed in the agreement with the Applicant submitted to the record as part of Overall Plan Elements in Z.C Case No 11-03A (Ex 235C). With respect to potential hotel noise, the Commission finds that proposed courtyard uses are consistent with the public-oriented activities of the Wharf and other open spaces, and any noise generated from the courtyard area will be comparable with those overall uses. Moreover, based on the approved Stage 1 PUD and the Waterside Relocation Plan approved in Z.C Order No 11-03A(1), the Gangplank Marina is not presently located adjacent to Parcel 5 and will be moved to the southeast adjacent to Parcels 6, 7, 8, and 9, and separated from Parcel 5 by the proposed 7th Street Pier. Consequently, any hotel noises will not directly affect the Gangplank Marina.
- 62 With respect to lighting, the proposed hotel will not have any exterior building illumination, except what is generated by retail users, directional and path lighting, service corridor lighting, plaza level hotel amenity and exterior courtyard lighting, and the hotel guest rooms. There also will be the ambient lighting from the Wharf itself.

Consequently, the proposed Parcel 5 PUD will not generate any unnecessary or objectionable lighting.

CONCLUSIONS OF LAW

- 1 Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits (11 DCMR § 2400 1) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience ” (11 DCMR § 2400 2.)
- 2 Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a second-stage PUD The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment
- 3 Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development
- 4 The PUD meets the minimum area requirements of § 2401 1 of the Zoning Regulations
- 5 The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines and the authority vested in the Zoning Commission to grant deviations therefrom The hotel and retail/service uses for this project are appropriate for the PUD Site The impact of the project on the surrounding area is not unacceptable Accordingly, the project should be approved
- 6 This Stage 2 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage approval and thus should be granted stage 2 approval. Pursuant to § 2408 6, if the Commission finds the Stage 2 PUD application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision As set forth above, the Commission so finds
- 7 The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated

- 8 The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
9. Approval of this PUD and map amendment is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
- 10 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 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP reports and its oral testimony at the hearing. As explained in this decision, the Commission finds OP's recommendation to grant the applications persuasive.
- 11 The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21, D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
- 12 The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 application for approval of the Stage 2 PUD for Parcel 5, subject to the guidelines, conditions and standards set forth below. For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order, however, that party remains liable for any violation of these conditions that occurred while an Owner.

A. Project Development

- 1 The PUD shall be developed with an extended-stay and limited-service hotel with retail and service uses, substantially in accordance with the architectural plans prepared by SmithGroupJJR Architects, dated February 8, 2013, and marked as Exhibit 17A in the

record, as revised by Exhibit 34A (collectively, the “Plans”), and as modified by the guidelines, conditions, and standards herein

- 2 The maximum height of the building shall be 110 feet, with approximately 300,479 square feet of gross floor area
- 3 Parking spaces for the Parcel 5 building shall be provided in the below grade garage as shown on the Plans. The Applicant shall abide by the Loading and Curbside Management Plan and Updated TDM Plan submitted as part of Exhibit 17B, and the Bus Management Plan submitted as Exhibit 44 to the record. The Applicant shall have the flexibility to modify the monitoring/reporting requirements in coordination with DDOT. The specific restrictions and guidance regarding loading operation at the Parcel 5 loading dock include
 - a. A representative of the hotel management will supervise all deliveries to the loading dock. This representative will monitor vehicle, bicycle, and pedestrian traffic on the Parcel 5 mews during loading ingress and egress and direct truck movements to minimize conflicts, especially when wide trucks are maneuvering down the cross service mews in two-way traffic,
 - b. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including, but not limited to, 20 DCMR Chapter 9 (“Engine Idling”), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System,
 - c. Delivery Trucks will not be permitted to maneuver during peak periods when traffic volumes are highest or at times that would conflict with trash collection. Peak periods are defined as weekdays (excluding holidays) from 7:00-9:00 a.m. and 4:00-6:00 p.m., and
 - d. High-turnover retail and restaurant delivery trucks will not be allowed to use the loading dock during times of high retail and restaurant traffic in The Wharf (this restriction applies to 30-foot trucks and not to delivery vans). Therefore, the dock will close to these delivery trucks at 4:00 p.m. on weekdays and 11:00 a.m. on weekends. After 11:00 a.m. on weekends, the dock will become available for special event setup and breakdown only as these activities will see a much lower turnover of heavy vehicles and will therefore create minimal conflict.
- 4 The Applicant may reserve a small portion of the outdoor courtyard plaza at the second level for the exclusive use of the extended stay hotel guests. The remainder of that outdoor courtyard plaza will be accessible to the public, including the hotel pool. The Applicant may charge a fee to non-hotel guests to use the pool.

- 5 The Applicant shall implement the storefront and signage guidelines included with the Plans. The Applicant shall strongly encourage restaurant café and retail tenants to include landscaping elements as part of their outside storefront areas, as appropriate.
- 6 The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a *Parking Spaces* The Parcel 5 building may provide a range in the number of parking spaces from 200 to 287. The Applicant shall have the option to construct an additional half level of parking to accommodate the maximum number of spaces authorized herein,
 - b *Loading Facilities* The Parcel 5 building shall provide three 30-foot loading berths, two 20-foot service/delivery loading spaces, and a 600-square-foot loading platform,
 - c *Roof Structure Setbacks* The Parcel 5 building shall comport to the roof structure setbacks as shown on the drawings,
 - d To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the Parcel 5 building;
 - e To vary the garage layout, location, and arrangement of the parking spaces, provided that the total number of parking spaces is not reduced below 200 spaces,
 - f 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 the materials, and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code, the recommendations of the U.S. Commission of Fine Arts, or that are otherwise necessary to obtain a final building permit, and
 - g. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans

B. Public Benefits

- 1 Prior to the issuance of a certificate of occupancy, the Parcel 5 building shall be designed to achieve a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or

higher, consistent with the score sheets submitted as Sheet 2 24 of the Volume IV of the drawings. The building shall use low impact development ("LID") strategies to reduce as much runoff from leaving the site as is practical and will filter one inch of rainfall before discharging from the site. The building shall meet the LEED stormwater requirements in conformance with the certification process sought for the building.

2. Prior to issuance of a certificate of occupancy, the Applicant shall establish the Project Association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD boundaries. Additionally, the Project Association will be responsible for programming and staging events within the PUD. The Project Association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance ("CAM") assessment charge to each development component within the PUD. The Applicant shall create, manage, and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia required by the LDA and the Applicant and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit.
3. During construction of the PUD, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the project. Prior to issuance of a building permit for the construction of the project, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, which is an affiliate of the Academy of Construction and Design at Cardozo, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.
4. During the life of the project, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development (Z.C. Exhibit No. 4-J in Z.C. Case No. 11-03) to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD.
5. Prior to the issuance of a certificate of occupancy, the Applicant shall pay to the District \$750,000 in support of the District's Workforce Intermediary Program. Payment of the \$750,000 in connection with requirement of another Stage 2 PUD for the Southwest Waterfront shall satisfy the condition of this PUD order.

C. Miscellaneous

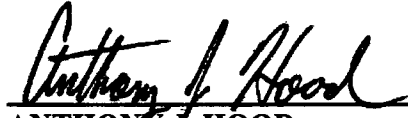
1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Z C Order No 11-03B. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1, the filing of the building permit application will vest the Order. Construction of the project must commence within three years of the effective date of Z C Order No 11-03B.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D C Law 2-38, as amended, and 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 8, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J Hood, Marcie I Cohen, Robert E Miller, Peter G May, and Michael G. Turnbull to approve)

On May 13, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J Hood, Marcie I. Cohen, Robert E Miller, Peter G May, and Michael G. Turnbull to adopt)

Z.C. ORDER NO 11-03B
Z.C. CASE NO. 11-03B
PAGE 20

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 June 21, 2013



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING