

# Holland & Knight

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July 23, 2013

VIA IZIS AND HAND DELIVERY

D.C. Zoning Commission  
441 4<sup>th</sup> Street, N.W., Suite 210  
Washington, DC 20001

Re: **Applicant's Response to Report of Advisory Neighborhood Commission 7C in Z.C. Case No. 12-16 (CG Marketplace, LLC – Consolidated PUD & Related Map Amendment for Various Lots @ Squares 5276, 5272, 5277, and 5246)**

Dear Members of the Commission:

On behalf of CG Marketplace LLC, as Applicant in the above-referenced case, we hereby this response to the report dated July 18, 2013 and filed by Advisory Neighborhood Commission ("ANC") 7C in this case.

The Applicant has worked diligently for a number of years to obtain community support for the overall Capitol Gateway PUD and the project. The Applicant has met with and presented the project to the Ward 7 Councilmember, a number of individuals, members of community groups, Advisory Neighborhood Commission ("ANC") 7C and 7E, and individual ANC commissioners. As a result of these efforts, the Applicant has received letters of support from the Northeast Boundary Civic Association (Exhibit 26), the Capital Gateway Community Resident Association (Exhibit 27), Councilmember Yvette Alexander (Exhibit 25), Ronald Streff (Exhibit 28), Mary Gaffney (Exhibit 29), and Mary D. Jackson (Exhibit 33).

The Applicant notes that the ANC 7C report includes a number of factual inaccuracies and misstatements. Thus, the Applicant submits the following information to clarify the record and ensure that the Zoning Commission is relying upon accurate information when reviewing the merits of this application:

**Public Benefits and Amenities** - ANC 7C states that the Applicant does not meet the PUD evaluation standards with respect to public benefits and amenities, and that the only proposed public benefit offered by the Applicant is the proposed restaurant. However, as

indicated in the record, the Applicant has indicated that the project will result in a number of public benefits and amenities, including the following:

1. Urban design, architecture, landscaping, open spaces, and streetscape improvements, including an urban plaza (Section 2403.9(a));
2. A number of transportation features, including, for example, the unbundling of parking costs, TDM leaders, providing a minimum of 126 bicycle parking/storage facilities, the provision of transportation kiosks, the inclusion of car sharing spaces, and constructing pedestrian safety amenities at the intersection of East Capitol Street and Southern Avenue (Section 2403.9(c));
3. Employment opportunities through the execution of a First Source Employment Agreement with the Department of Employment Services (Section 2403.9(e));
4. Housing and affordable housing (Section 2403.9(f));
5. A number of environmental benefits (Section 2403.9(h)) -including streetscape improvements and enhancements to the public space, vehicular and pedestrian improvements, transportation demand management measures, the reduction of retaining walls, the provision of special features such as rain gardens, linear bioswales along streetscapes, native vegetation, and porous pavers where feasible, and designing the mixed-use building to meet the equivalent to LEED Silver rating (Section 2403.9(h)); and
6. Uses of special value to the neighborhood, including a stand-alone full service restaurant (Section 2403.9(i))

The Applicant also notes that the Office of Planning report, dated June 10, 2013 and included as Exhibit 31 in the record, recommends approval of the application and includes on pages 10-13 of the report a detailed assessment of the public benefits and amenities generated by the project. The record also includes a number of letters in support of the project based upon the proposed mix of uses and design of the project, including For example, in her letter of support dated May 21, 2013 and included as Exhibit 25 in the record, Ward 7 Councilmember Yvette Alexander states that the project, which includes retail, restaurant, and residential uses is a critical step in implementing the overall Capitol Gateway Estate development; the project components reflect community desires for new, high-quality sit-down restaurant, and retail uses in Ward 7; and the proposed 288 residential uses will continue to add stability and strength to the community.

Accordingly, the record indicates that the Applicant has clearly identified the public benefits and amenities associated with the project, and these public benefits and

amenities meet the PUD evaluation standards set forth in Section 2403 of the Zoning Regulations.

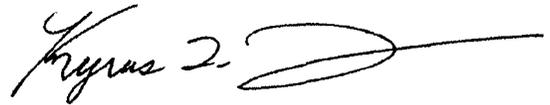
**Affordable Housing.** ANC 7C states that the proposed affordable housing should not be treated as an amenity since the anticipated rental rates exceed existing rental rates in the area. As described during the public hearing and in the Applicant's written materials, the Applicant has worked to ensure that the proposed housing would be both affordable, while also not adversely impacting property values of the existing home owners. Under the Inclusionary Zoning regulations, 10% of the gross residential floor area is required to be devoted to affordable units, with half of these units set aside for families earning up to 50% of the AMI and the remaining half set aside for families earning up to 80% of the AMI. However, the Applicant has committed that all of the proposed 288 residential units (plus or minus 10%), will be financed through a Low Income Housing Tax Credit financing offering, and thus all of the residential units in the mixed-use building will be designated as affordable housing units for households earning 60% of the AMI for 15 years. This substantially exceeds the amount of affordable housing that would have been required through matter of right development of the site under existing zoning, and substantially exceeds the amount of affordable housing required under the Inclusionary Zoning requirements, and thus constitutes a public benefit under the Zoning Regulations.

**Compliance with Policy FNS-2.3.1 of the Comprehensive Plan.** ANC 7C states that the project is inconsistent with the Comprehensive Plan because it conflicts with Policy FNS-2.3.1 which "precludes Capital Gateway should generate additional development within the community." However, Policy FNS-2.3.1: Northeast Boundary Neighborhood recommends leveraging the development of the Capitol Gateway Estates PUD to achieve additional reinvestment in the Northeast Boundary neighborhood, including the development of new housing. The proposed project, which includes the commercial component and additional residential uses for the previously approved Capitol Gateway Estates PUD, is consistent with this policy since the project will help promote reinvestment in the neighborhood by delivering a high-quality development that includes a large-format retail store; a mixed-use building with approximately 288 residential units (plus or minus 10%) and approximately 23,500 square feet of retail use; a 8,400 square foot sit-down restaurant site; and new streetscape improvements that will help to activate this portion of the East Capitol Street corridor.

**Employment Practices.** ANC 7C states that the large-format retail component of the project does not include an effective hiring policy for ex-offenders, and thus the unemployment rate will decrease within the boundaries of ANC 7C. However, all retailers within the development will comply with applicable local and federal laws employment laws.

In conclusion, the Applicant believes the record establishes that the application meets all applicable standards for approval. Accordingly, we look forward to the Zoning Commission's favorable consideration of this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyrus L. Freeman", with a long horizontal flourish extending to the right.

Kyrus L. Freeman

cc: Advisory Neighborhood Commission 7C (w/attachments, via U.S. Mail)  
Advisory Neighborhood Commission 7E (w/attachments, via U.S. Mail)  
Maxine Brown-Roberts, D.C. Office of Planning (w/attachments, via Hand)