

October 31, 2006

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**VIA HAND DELIVERY**

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

Re: Comstock East Capitol, L.L.C.  
Zoning Commission Case No. 06-34  
Square 1096, Lots 51-55, 1705-1729 East Capitol Street, SE (the "Property")

Dear Members of the Commission:

This letter is submitted on behalf of Comstock East Capitol, L.L.C. ("Comstock" or "Applicant"), in response to comments received from the Zoning Commission during the Commission's recent hearing action review of the above-referenced application. The Applicant has proposed a consolidated planned unit development and map amendment from R-4 to R-5-B to facilitate the construction of a four-story 136-unit apartment house on the Property.

Following the discussion of the Zoning Commission at its public meeting held on October 16, 2006, the Applicant, in coordination with the District of Columbia Office of Planning (OP), has further studied and refined the design of the Project. A revised set of plans, dated October 23, 2006, are attached hereto as Exhibit A. The Applicant has also clarified, restated and enhanced its package of proffered project amenities and public benefits as set forth on Exhibit B. The Applicant welcomes the opportunity for further review of these materials by the Commission and hopes for action by the Commission on November 13, 2006, to set down this revised application for a public hearing.

**A. Refinements to Architectural, Landscape, and Traffic Circulation Plans**

The Commission raised a variety of questions regarding the design of the Project, including: (1) the design treatment of the rear/south elevation of the Project; (2) roof use, access, and safety, including location of air conditioning units and size of penthouse enclosures; (3) landscaping treatment and site design issues throughout the Property; and (4) provision of

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adequate loading facilities and management of vehicular traffic utilizing the public alley running to the immediate south of the Property. In response to these issues, as well as recommendations from OP included in its report dated October 6, 2006, and in subsequent discussions with OP staff, the Applicant has refined the architectural, landscape and traffic circulation plans attached as Exhibit A. The Applicant calls the Commission's particular attention to the following elements:

1. *Design Treatment of the South Building Elevation* - The south elevation of the Project has been refined to incorporate higher-quality materials and to more closely match the coloring, design and architectural treatment of the front and side elevations of the project. Brick masonry has been added to the non-courtyard areas on the rear elevation. The coloring and materials of the bay projections in the courtyards have been revised to match the front of the building. Cornice treatments have been continued from the side elevations. Details for balconies, downspouts and railings also have been added to enhance visual interest and to improve the accuracy of the drawings. These improvements, in conjunction with newly-added landscape elements (see below), greatly improve the look and feel of the south elevation and, at the same time, significantly reduce the perceived height and massing of this elevation (refer to drawing sheets A5 and A22).
2. *Roof Design and Use* - The roof and penthouse design has been developed further and documented more clearly. While still requiring flexibility to provide multiple penthouse structures given the accordion-shaped footprint of the Project, the Applicant has succeeded in further reducing the bulk of the penthouses. Guardrails are now shown around all patios and walkways. Air conditioning equipment has been removed from the side yards of the Project and located to the roof level to minimize visual and noise-related impacts to neighboring properties. (refer to drawing sheets A18, A18a, A20 and A21). The size of the penthouses has been reduced and the drawings have been clearly labeled to show that all spaces in the penthouses are devoted either to mechanical equipment or roof access and that there is no habitable space above the fourth floor.
3. *Landscaping Treatment* - The landscaping plan has been further developed for the Project. Additional plantings are now shown throughout the site. Consistent with comments from the Commission, particular attention has been given to the south-facing courtyards and along the south property line. These refinements will take advantage of natural sunlight afforded the southern exposure and will improve the views of the Project from the neighbors to the south (refer to drawing sheets A1, A1A, A5, A12 and L1.0). Landscaping also has been added in those side yard areas formerly occupied by air conditioning units (refer to drawing sheets A1, A1A, A12, A13, A14 and L1.0).
4. *Other Design Clarifications and Refinements of Interest to the Commission* -
  - a. *Vehicular Access* - The proposed direction of the one way alley is now clearly shown as a westbound traffic flow. This is a neighborhood-generated request

which will improve traffic flow in the alley by reducing traffic conflicts at the entry points on 17th and 18th streets and by feeding traffic away from the northbound approach of 18<sup>th</sup> Street to East Capitol Street, which is an unsignalized intersection. (refer to drawing sheets A1 and A12).

- b. *Cellar-Level Windows and Window Wells* – These details are more clearly shown on elevations and sections, with guardrails now shown at window wells deeper than thirty inches (refer to drawing sheets A20, A21, A22, A23 and A24). Windows in the cellar level are proposed to be approximately five feet in height.

## **B. Enhanced and Clarified Project Amenities and Public Benefits Package**

At the October 16 public meeting, the Commission also requested additional information relating to the application's package of public benefits and project amenities. To that end, in the attached Exhibit B, the Applicant provides a breakdown and offers additional details regarding the benefits and amenities proposed. While various elements of the package remain in the process of being formalized with the District and other intended recipients, the Applicant believes that the package as a whole reflects a significant and appropriate benefit to its immediate residential and institutional neighbors, the surrounding East Capitol neighborhood, as well as to the District at large.

Public benefits are defined in the Zoning Regulations as "superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title." Further, project amenities are defined as one type of public benefit, "specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors." In crafting its proposed benefits and amenities package, the Applicant has sought the input of a wide variety of community stakeholders, including the immediate neighboring property owners to the east, south and west of the Property. A significant portion of the benefits proposed in the application are direct products of recommendations made by neighbors to the Property.

Included among the package is the Applicant's commitment to restrict a total of eleven residential units in the Project for occupancy by qualified moderate income households. The Applicant further details its affordable housing proffer at Exhibit C. Other important public benefits include significant enhancements to the public alley running east-west in Square 1096, where the Applicant is working with the District's Departments of Transportation and Public Works to re-top the asphalt paving in the alley, to add landscaping improvements along the alley, to improve lighting in the alley and to improve circulation by converting the alley to single direction traffic. Additional proposed endeavors that will directly benefit neighbors to the Project include improvements to recreational equipment at neighboring Eastern High School and contributions toward exterior building maintenance and beautification of the adjoining senior citizen building to be developed by Mount Moriah Baptist Church on 17<sup>th</sup> Street and the Drummond Condominium on 18<sup>th</sup> Street. In addition to the significant affordable housing

proffer, benefits to the District at large also include efforts by the Applicant to utilize District residents to fill employment needs as part of the construction of the Project (through agreement with the District Department of Employment Services) and to maximize contracting opportunities with local small District businesses (pursuant to memorandum of understanding with Department of Local, Small and Disadvantaged Business Development). Comstock has already demonstrated its commitment to the LSDBE program with its engagement of PGN Architects, an LSDBE-registered firm.

Section 2403.8 of the Zoning Regulations provides that when deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered by an application with the degree of development incentives requested and any potential adverse effects of approval of the project. An applicant has the burden to justify the granting of its application under these standards. For the Commission's reference in undertaking its review at this preliminary stage, the Applicant provides at Exhibit B a breakdown of the incentives and flexibility requested as part of the Map Amendment and PUD, along with a summary of the project amenities and public benefits proffered with the application. While the Applicant continues to formalize the proffered public benefits and to enhance the project's amenities, the Applicant maintains that its proffer package, based largely upon input received from neighboring stakeholders most impacted by the Project, provides a significant and appropriate balance to the additional development envelope and flexibilities granted through the application.

### **C. Loading and Traffic**

A question was also raised by the Commission regarding the loading berth and access thereto. As noted in the application materials, the Project contemplates a joint delivery/loading berth space measuring 45 feet in depth (in lieu of a 20 foot deep delivery space and a 55 foot deep berth), to be located at the southeast corner of the Property and accessed from the public alley. In its preliminary report to the Commission, the Office of Planning indicated that more information justifying this proposed flexibility is required from the Applicant. The Office of Planning has also indicated concern regarding the sufficiency of the turning radius available to large trucks accessing the loading area through the alley and further demonstration that the grant of flexibility will not negatively impact traffic circulation through the alley.

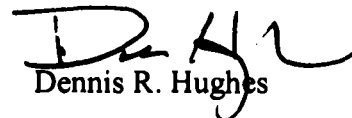
The Applicant has requested flexibility from the loading requirements because the project has similar conditions to those experienced by other projects that have requested and received loading reductions. Here, the size and footprint of the Project and the location of the loading berth off the public alley preclude full compliance with the loading regulations without working a detriment to the design of the Project or creating adverse impacts as a result of truck maneuvering or parking in the alley. Further, the size of the apartment units (and the households anticipated to occupy same) indicate that the hybrid loading facility proposed will suffice for the needs of residents. That is to say, it is anticipated that only on very rare occasions will the deliveries relating to the Project will involve the very largest delivery trucks that would require a 55 foot deep loading berth. On such rare occasions, accommodation can be made with the

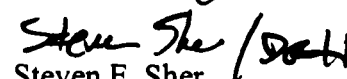
Metropolitan Police Department to allow for a temporary loading zone in front of the Property on East Capitol Street. With respect to the turning radius available to large trucks in the alley, as clarified on Sheet T-1.0 of the plans, there is sufficient turning radius to allow for access by a single unit truck, including trash trucks up to 34 feet in length.

Finally, in response to a question raised by the Commission as to the proposed conversion of the alley to a single traffic direction, the Applicant has revised the attached plans and drawings to more clearly indicate the nature of the proposal (refer to Sheet A1). Again, this proposal has been initiated in coordination with various neighboring property owners abutting and utilizing the alley. It will not only facilitate a safer and more orderly utilization of the alley, it will also allow for a more efficient traffic pattern to take advantage of the signalized intersections at East Capitol and 16<sup>th</sup> and 17<sup>th</sup> Streets, and to direct traffic away from approaching East Capitol on 18<sup>th</sup> Street at an unsignalized intersection. The Applicant has retained the expert traffic analysis services of Gorove-Slade Associates, Inc., which is in process of preparing a thorough analysis of traffic patterns and volume relating to the Property and the Project.

In conclusion, on behalf of the Applicant, we wish to thank the Commission for its consideration of these supplemental materials. The Applicant continues to be very excited to pursue this meaningful residential project. To that end, the Applicant believes that it has addressed the issues identified by OP, which should solidify OP's support for the application. Likewise, the Applicant appreciates the opportunity offered to clarify issues raised by the Commission at its October 16<sup>th</sup> public meeting. As demonstrated herein, the Applicant returns to the Commission with a further enhanced and attractive project and requests that the Commission set the application for a public hearing at its very earliest convenience. Please do not hesitate to contact the undersigned with any questions.

Sincerely,  
HOLLAND & KNIGHT LLP

  
Dennis R. Hughes

  
Steven E. Sher,  
Director of Zoning and  
Land Use Services

Attachments

cc: Maxine Brown Roberts, OP  
Jennifer L. Steingasser, OP  
Advisory Neighborhood Commission 6A

**EXHIBIT A**

**Revised Plans  
Dated October 23, 2006**

**Attached Separately**

## EXHIBIT B

Case No. 06-34

### 1705-1729 East Capitol Street, S.E. Project

Comparison of Flexibility Requested  
to Amenities and Benefits Provided

<b>Development Incentives/Flexibility requested</b>	<b>Benefits/Amenities provided</b>
Height: maximum of 50 feet permitted as a matter-of-right and guideline of 60 feet under PUD; 49.9 feet provided	Housing (§2403.9(f)): 134 units provided, increase of 54 units over existing building
FAR: maximum of 1.8 permitted as a matter-of-right and guideline of 3.0 under PUD; 2.70 provided	Affordable housing (§2403.9(f)): 10,758 square feet, no less than 11 units (8% of the total) to be sold to households making no more than 80% of the Area Median Income for a ten year rolling period; estimated revenue from sale of affordable units = \$2,200,000 (\$200,000/unit); estimated construction cost of affordable units = \$3,861,000 (\$351,000/unit); estimated revenue from sale of comparable market rate units = \$4,500,000 (\$409,000/unit)
Lot occupancy: maximum of 60% permitted as a matter-of-right; 66% provided	Site planning (§2403.9(b)): extensive landscaped grounds and additional planting provided in courtyards; roof decks for unit owners; setbacks from adjoining buildings on the east and west
Rear yard: minimum of 4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the roof or parapet = 16 feet required; 3 feet provided	Architecture (§2403.9(a)): compatible design and massing; brick on the four main sides of the building, excluding the rear courtyards
Loading berth: minimum of 1 55 foot berth and 1 service/delivery loading space required; 1 combined 45 foot berth/space provided	Environmental benefits (§2402.9(h)): cool roof, energy efficient construction

<p><b>Roof structures: more than one enclosure</b></p>	<p><b>Improvement of public alley system (§2403.9(c)):</b></p> <p><b>Establishment of one-way westbound configuration</b></p> <p><b>repair and repaving (estimated at approximately \$100,000)</b></p>
	<p><b>LSDBE commitment (§2403.9(e)): good faith efforts to reach the goal of 35% (approximately \$8,750,000 in construction contracting opportunities, depending upon final project costs)</b></p>
	<p><b>DOES commitment (§2403.9(e)): agreement to use DOES as the first source of employment with a goal of 35%</b></p>
	<p><b>Social services (§2403.9(g)): \$10,000 contribution to the Brig Owens "Super Leaders" mentoring and youth leadership program at Eastern High School</b></p>
	<p><b>Improvement of properties immediately abutting the site (§2403.9(j)): \$30,000 to improve the façades of the proposed Mt. Mariah senior housing building at 17<sup>th</sup> Street and the existing Drummond apartment building at 18<sup>th</sup> Street</b></p>
	<p><b>Other community benefits (§2403.9(i)):</b></p> <p><b>resurfacing and repair or replacement of equipment for 2 community basketball courts at Eastern High school (estimated at \$40,000)</b></p> <p><b>installation of trash receptacles at 4 corners of the square (estimated at \$5,000)</b></p>



## **EXHIBIT C**

**Case No. 06-34**

### **1705-1729 East Capitol Street, S.E. Project**

#### **Planned Unit Development Inclusionary Housing Commitment Standards**

(Based Upon the Standards Issued By the Office of the Director of the D.C. Office of Planning in Previous PUD Cases)

#### **Development Standards**

- Total Square Footage:** Applicant shall commit to reserve no less than 10,758 gross square feet of the total marketable residential square footage for units affordable to households within the targeted income range. This commitment equals eight percent (8%) of the project's gross square foot area and shall equate to the provision of no less than eleven (11) units.
- Unit Types:** The mixture of affordable unit types shall be comparable to the mixture of market rate unit types. The proportion of affordable studios and 1-bedrooms may not exceed the proportional mix of market rate studios and 1-bedrooms.
- Unit Sizes:** Internal square footage of affordable units should be comparable to that of market rate units.
- Unit Distribution:** Affordable apartment units shall be evenly distributed vertically and horizontally throughout the building, except for the top two floors. No floor shall be comprised of 100% affordable units.
- Construction:** External design and materials of affordable units shall be indistinguishable from market rate units. Internally, appliances and finishes shall be comparable, but may be of different quality.

**Household Standards**

**Target Income Range**

Eligible households are defined as those households that meet the following:

- Having household income not less than 60% and not exceeding 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area and adjusted for family size:(see below for the summary of current income limits);
- Purchasing or renting their primary residence;
- Have no ownership interest in any other housing within the past three years;
- Commit to continuous occupancy per the lease terms or deed covenants;
- Qualify for any necessary mortgage financing and down payment, and
- Have an income eligibility certification letter by making application to the home purchase assistance programs of the DC Department of Housing and Community Development (DHCD)

**Affordability Control Period:**

The affordability control period shall be for a time period of ten years from the issuance of the first Certificate of Occupancy for the residential unit.

**Initial Housing Cost:**

Shall be determined by the District government based on the following assumptions as may be adjusted by future income limits:

- Monthly housing payment shall equal 30% of the Income Limits by family size and unit type.

Unit Type	Household Size	FY 2006 Income Limit
Studio/Efficiency	1 Person Household	\$63,200
1 -Bedroom	2 Person Household	\$72,200
2-Bedroom	3 Person Household	\$81,300

- Purchase assumptions include:
  - 5% Down Payment;
  - Monthly housing payment includes principal, interest, taxes, insurance and condo or home association fees;
  - 30 year term;
  - Current national average interest rate determined by FreddieMac weekly survey of mortgage (see [www.freddie.mac.com](http://www.freddie.mac.com)).
- Rental assumptions include:
  - Housing payment does not include utility allowance.

**Final Housing Cost:** Shall be determined 60 days prior to marketing of the affordable units using current information for the same assumptions above.

**Occupant Selection:** Applicant shall hold a lottery of all qualified families to be selected as the Initial Unit Purchasers. Applicant will provide notice of the lottery through advertisements in local newspapers and other vehicles reasonable to ensure broad exposure to potentially eligible purchasers. The Department of Housing and Community Development will also advise existing applicants to its home purchase assistance programs of this affordable housing opportunity. The Initial Unit Purchasers and the Initial Unit Price shall be determined six months prior to the projected completion of the Affordable Units.

**Resale Restrictions:** Resale During Control Period - The Affordable Units will be restricted (through a deed restriction, covenant and/or other legal means) in their resale for a period of 10 years to: (1) income-eligible homebuyers, a list of whom may be obtained from the Department of Housing and Community Development's applicant pool for home purchase assistance programs; (2) a maximum Purchase Price equal to the Initial Unit Price plus the cumulative change in the consumer price index and the cost of permanent improvements to the Unit; and (3) Sale within a given 10 year affordability restriction period shall create a new 10 year affordability restriction period.

Resale After Control Period - Upon the expiration of the 10-year restricted selling period, the then current Owner of the Unit may sell the Unit without restriction but the sales proceeds shall be allocated as follows:

First, to the-seller in the amount of the original sales price plus the cumulative change in the consumer price index, the cost of permanent improvements to the Unit, the closing costs paid by the seller at closing and a reasonable sales commission.

The remainder shall be split equally between the seller and a District of Columbia government fund dedicated to the provision of affordable housing.

**Enforcement:** If District funds are used to underwrite the affordable units, the restrictive covenants applicable to the contributing funding source used will apply.

If District funds are not used to underwrite the affordable units, restrictive covenants shall apply until the affordable Housing Production Trust Fund receives the appropriate contribution from the sale of the unit.

The District government shall retain all rights to enforce the provisions of the affordability covenants, according to the provisions of this document or such enforcement mechanisms as the District government may deem appropriate. The District government shall have the right to recapture any enforcement costs.

**Procedural Changes:** The substance of any of the; above clauses that are included in deed restriction terms may not be modified without consent of both the unit owner(s) and the District government Administrative, monitoring and enforcement mechanisms not included in deed restrictions may be modified at the sole discretion of the District government.