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**BEFORE THE
DISTRICT OF COLUMBIA ZONING COMMISSION**

APPLICATION NO. 06-34

**OF
COMSTOCK EAST CAPITOL, L.L.C.**

**FOR CONSOLIDATED REVIEW AND APPROVAL OF A
PLANNED UNIT DEVELOPMENT AND
ZONING MAP AMENDMENT**

APPLICANT'S SUPPLEMENTAL STATEMENT

November 28, 2006

**ZONING COMMISSION
District of Columbia**

CASE NO. 06-34
EXHIBIT NO. 13B

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DEVELOPMENT TEAM

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. NATURE OF APPLICATION	2
III. RESPONSES TO ISSUES RAISED AT SET-DOWN	5
A. Zoning Commission	5
1. Clarification of Plans and Drawings	5
a. Roof Plans	6
b. Cellar Level	6
c. Parking	7
d. Window Wells	8
2. Affordable Housing Benefit Clarification	8
B. Office of Planning	9
1. Traffic and Parking Study	9
2. Green Building Elements	10
3. Exterior Lighting Details	10
4. Details of Off-Site Improvements	10
IV. EXAMINATION OF BENEFITS PACKAGE	11
§2403.9(a) Urban Design, Architecture, Landscaping, Creation/Preservation of Open Space	11
§2403.9(b) Site Planning, and Efficient Land Utilization	12
§2403.9(c) Effective and Safe Vehicular and Pedestrian Access, Transportation Management Measures, Connections to Public Transit Service, and Other Measures to Mitigate Adverse Traffic Impacts	12
§2403.9(d) Historic Preservation of Private or Public Structures, Places, or Parks	12
§2403.9(e) Employment and Training Opportunities	12
§2403.9(f) Housing and Affordable Housing	12
§2403.9(g) Social Services/Facilities	13
§2403.9(h) Environmental Benefits	13
§2403.9(i) Use of Special Value to the Neighborhood or the District of Columbia as a Whole	13
§2403.9(j) Other Public Benefits and Project Amenities	13

V.	FLEXIBILITY REQUESTED FROM THE PROVISIONS OF THE ZONING REGULATIONS	14
	A. PUD Area Requirements (§2401.1(b)).....	14
	B. Percentage of Lot Occupancy (§403.2).....	15
	C. Rear Yard (§404.1).....	15
	D. Roof Structures (§411).....	16
	E. Loading (§2201).....	17
VI.	APPLICATION SATISFIES FILING REQUIREMENTS OF CHAPTERS 24 AND 30	18
VII.	THE APPLICANT REQUESTS APPROVAL	18

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Supplemental Architectural Drawings	A
Traffic Impact and Parking Study	B
Outlines of Witness Testimony	C
Information re: "Green Building" Elements	D
Certificate of Compliance with 11 DCMR § 3013	E
List of Maps, Plans or other Documents readily available which will be offered into Evidence	F

LIST OF WITNESSES THAT MAY BE CALLED

Mark Beckett - Representative of Comstock East Capitol, L.L.C.

Jeff Goins - Representative of PGN Architects, PLLC

Chad Baird, Lou Slade - Representatives of Gorove/Slade Associates, Inc.

Steven E. Sher - Director of Zoning and Land Use Services, Holland & Knight LLP

Estimated time required for presentation of Applicant's Case: 1.0 Hour

I. INTRODUCTION

Pursuant to Chapter 24 of the District of Columbia Zoning Regulations (11 DCMR) (the "Zoning Regulations"), this Supplemental Statement and the attached documents are submitted to the District of Columbia Zoning Commission by Comstock East Capitol, L.L.C. (the "Applicant") in further support of Application No. 06-34, for the consolidated review and approval of a planned unit development ("PUD") and a related amendment to the Zoning Map for property located at Lots 51, 52, 53, 54, and 55 in Square 1096 (the "Property" or the "Site"). Square 1096 is bounded to the north by East Capitol Street, to the east by 18th Street, SE, to the south by A Street, SE, and to the west by 17th Street, SE. The Property fronts the south side of East Capitol Street and is bounded to the east by an existing apartment building owned by the Mt. Moriah Baptist Church, to the west by the Drummond Condominium, and to the south by a 20 foot wide public alley running east-west through Square 1096. The Property is located in Ward 6 and within the boundaries of Advisory Neighborhood Commission ("ANC") 6B.

The Applicant is seeking PUD approval and rezoning of the Property from the R-4 District to the R-5-B District in order to construct a four-story apartment building consisting of 134 residential units and 113 parking spaces, as provided in the plans and drawings submitted to the Zoning Commission by letter dated October 31, 2006 (Exhibit 11A in the Office of Zoning Official Record), and as supplemented and clarified by the plans and drawings submitted herein at Exhibit A (the "Project"). The Project is not inconsistent with the District of Columbia Comprehensive Plan, 10 DCMR, (the "Comprehensive Plan"), including its Land Use Element and Generalized Land Use Map and Generalized Land Use Policies Map, which, among other things, designate the

Property for moderate density residential use. As noted in the October 6, 2006, Setdown report of the District of Columbia Office of Planning ("OP"), the Project also fulfills numerous aspects of the Comprehensive Plan's Housing Element, Urban Design Element, and the Ward 6 Plan.

Application No. 06-34 was filed with the Zoning Commission on June 23, 2006. At its November 13, 2006 public meeting, the Zoning Commission voted to set-down the Application for public hearing. With the filing of this Supplemental Statement, the Applicant: (1) responds to comments raised at the Zoning Commission's set-down meeting; (2) provides further information regarding the proposed package of community benefits; (3) identifies and addresses the flexibility requested by the Application under the Zoning Regulations; (4) satisfies the administrative requirements of Chapter 24 of the Zoning Regulations; and (5) requests that the Zoning Commission set Application No. 06-34 for public hearing at its earliest available date.

II. NATURE OF APPLICATION

The PUD process is the appropriate mechanism for guiding the residential redevelopment of the Property. In permitting an applicant to construct a project that is not completely in conformity with the matter-of-right zoning envelope for a particular property, the PUD process insures that such a project is in keeping with the general character of, and not detrimental to, surrounding properties, and to the District and its Zone Plan as a whole (11 DCMR §2400.4). The PUD process accomplishes this balance through public hearing and consideration by the Zoning Commission based upon the input of OP and the District of Columbia Department of Transportation ("DDOT") as

well as the views of the affected Advisory Neighborhood Commission (ANC 6B), and the larger community.

To that end, the Applicant has met with community stakeholders, including immediate residential neighbors to the east, west and south of the Site, Eastern High School administrators, ANC 6B, through its Planning & Zoning Committee, and representatives of the Capitol Hill Restoration Society over the past several weeks and will continue to do so in coming months, including formalizing the proposed community benefits package. The community has been consistently receptive to the Applicant's proposal to replace the existing vacant and derelict apartment buildings on the Property with new multi-family residential use.

The Applicant has also met on a number of occasions with OP to discuss that office's priorities and suggestions regarding the application and the Applicant's package of proposed project amenities and community benefits, and the Applicant will continue to work in coordination with OP prior to the public hearing to finalize outstanding elements of its community benefits package. The Applicant's traffic expert also has consulted with DDOT to determine that office's scope of review as well as any comments that office might have with traffic circulation for the proposed Project.

The PUD process will enable the Applicant to develop a residential project which will achieve a central goal of the District and neighboring residents, namely conversion of underutilized and vacant property to vibrant urban residential use. The adjustments that are sought through the rezoning of the Property are not inconsistent with the Comprehensive Plan and other development in the area, and are within the PUD guidelines for the requested R-5-B District.

The proposed multi-family residential use, which will replace existing, vacant apartment buildings, is compatible with the surrounding residential land uses. Given the Property's original residential use, the community's desire to stabilize, perpetuate and increase residential uses in the neighborhood, and the numerous multi-family residential projects in close proximity to the Site, the Project use is both complementary and compatible with these surrounding uses.

The proposed rezoning of the Property to the R-5-B District is consistent with the District's Zone Plan. The rezoning is being proposed primarily to permit continued apartment house residential use on the Property, which is not permitted under the current R-4 District, consistent with the apartment house construction currently existing at the Site, which improvements were constructed prior to the effective date of the Zoning Regulations. Other apartment houses are also located within Square 1096 and immediately to the east.

No adverse environmental impact will result from the Project. In fact, the Project incorporates a number of "green building" elements, as described herein. The increased use in water and sanitary services will not have an adverse effect on the District's delivery system. The Site is currently served by all major utilities. The Project will not have an adverse impact on public facilities. The Project is adequately served by public transportation, located within approximately two blocks of the Stadium/Armory Metrorail station, which serves both the Blue and Orange lines, and within short walking distance to several Metrobus routes. Please see Traffic Impact and Parking Study herein at Exhibit B.

In sum, the Map amendment application to R-5-B, as conditioned by the proposed planned unit development, is not inconsistent with the Comprehensive Plan, is supported by the surrounding community and entails significant physical improvement to the Site and benefits to the surrounding neighborhood.

III. RESPONSES TO ISSUES RAISED AT SET-DOWN

In the discussion leading up to the Commission's decision to set down the Application for public hearing, members of the Commission raised questions and comments for the Applicant's consideration in proceeding with the Application. In its Setdown Report and Supplemental Setdown Report, OP also requested certain additional information prior to the hearing. The Applicant provides responsive information and commentary herein, to be supplemented, as appropriate, at the public hearing.

A. ZONING COMMISSION

The Commission requested further clarification of the plans and additional information regarding the following items:

1. CLARIFICATION OF PLANS AND DRAWINGS:

As part of the November 13, 2006, setdown review, members of the Zoning Commission noted with approval the progress that has been made in the design development of the Project. As the Project moves forward to the public hearing stage, the Commissioners raised a few additional issues for consideration and study, which the Applicant has sought to address preliminarily in the supplemental drawings provided herein at Exhibit A and as discussed below. The Applicant will continue to refine the

drawings over the course of the next few months in anticipation of the public hearing, mindful of the Commission's preliminary comments, recommendations from OP and from community stakeholders.

a. Roof Plans

Responsive to comments received from the Commission, the Applicant has refined the penthouse plan to more accurately portray the setback of the penthouse structures from the building edges and the typical configuration of the "fields" of air conditioning units to be located on the building roof. As demonstrated in revised Sheet A18 at Exhibit A, all edges of the penthouse structure have been designed to set back from the building edge at not less than a 1:1 ratio of the respective heights of the penthouses. The east and west penthouse structures have likewise been reduced in height to twelve feet six inches.

Prior to the public hearing, the Applicant will provide updated architectural plans and drawings consistent with the revisions to the penthouse structures shown at the roof level in plan herein at Exhibit A.

b. Cellar Level

In response to a query from the Commission regarding the Applicant's calculation of building density/Gross Floor Area for the cellar level, the Applicant has undertaken further study of its civil engineering. Although no change to the cellar level plan has been made, the Applicant has determined that an additional 630 square feet of building area on the cellar level should be counted toward the Gross Floor Area and overall building density of the Project than the Applicant first calculated. This revision is a

product of the portion of the overall building perimeter of the cellar level that stands four feet or more out of the adjacent finished grade, measuring from interior ceiling height. Given that the portion of the building perimeter occupied by the garage door along the eastern portion of the building footprint will stand more than four feet out of the adjacent finished grade, a corresponding small amount of building density is generated that is attributable to Gross Floor Area and FAR. As the Applicant has confirmed upon further study, the remainder of the perimeter of the cellar level will not stand four feet or more out of the adjacent finished grade and therefore is correctly excluded from the Project's Gross Floor Area and FAR calculations.

Pursuant to the Applicant's calculations, approximately two percent of the cellar level perimeter is at least four feet out of the adjacent finished grade, reflecting an increase in Gross Floor Area of approximately 630 square feet. Accordingly, the overall Gross Floor Area for the Project would then increase to 116,474 square feet, for a building density of 2.73 FAR.

c. Parking

Per the Commission's direction, the Applicant has revised Sheet A13 (herein at Exhibit A) to indicate that the dimensions of the required parking spaces located within the cellar level, as well as access aisles, are fully compliant with the dimensional requirements of Chapter 2100 of the Zoning Regulations. Comparable dimensions likewise apply to the main parking level.

With respect to the comment received from the Commission regarding the proposed grouping of compact spaces within the two parking levels, the Applicant respectfully notes for the Commission that §2115.4 of the Regulations is applicable only

to required parking spaces. Given that the Project provides far in excess of the required number of parking spaces already, the compact spaces proposed to be provided in the Project are supplemental to the required spaces and thus technically not required to be grouped in a continuous group of not less than five spaces. Nonetheless, in keeping with the spirit of the Regulations, which seeks to call the presence of the compact spaces to the attention of garage users, the Applicant commits to include in its parking plan clear and explicit signage identifying the spaces as for compact car parking only.

d. Window Wells

Finally, the Applicant noted some questions from the Commission regarding the interpretation of the Project plans for window wells in light of the rendered perspective at Sheet A01. As clarified in Sheet A13, while the Project contemplates a number of window wells of varying depths, especially within the two front courtyard areas, there are no pedestrian areaways proposed along any portion of the Project. The legend included with revised Sheet A13 also serves to clarify the depths proposed for the various window wells and to indicate which will include protective guard rails.

2. AFFORDABLE HOUSING BENEFIT CLARIFICATION:

Pursuant to comments raised by the Commission regarding the affordability control period proposed as part of the Applicant's inclusionary housing proffer, the Applicant proposes to expand the control period to twenty years from the date of issuance of the first certificate of occupancy for the residential unit.

With these revisions and supplemental information, the Applicant has responded to the various comments and questions raised by the Commission at its November 13 public meeting. The Application is thus appropriately complete for review by the Commission at its earliest available date.

B. OFFICE OF PLANNING

In addition to comments received from the Commission at its November 13 public meeting, the Applicant also has been requested by OP, in its November 3 Supplemental Setdown Report, to submit the following: (1) traffic and parking study; (2) details regarding proposed "green building" element; (3) exterior lighting details; and (4) details of offsite improvements proposed as part of the Applicant's community benefits package.

1. TRAFFIC AND PARKING STUDY

The Applicant, through its expert traffic analyst, Gorove-Slade Associates, Inc., submits its Traffic Impact and Parking Study, dated November 27, 2006, included as Exhibit B herein. The study confirms that the Project will have no material negative impact on existing levels of service. In fact, the proposed redirection of the alley for single-directional traffic will enhance traffic circulation in the immediate vicinity.

The study likewise confirms that grant by the Commission of the requested flexibility regarding the loading berth size and configuration will not negatively impact traffic circulation in the neighborhood.

2. GREEN BUILDING ELEMENTS

Attached at Exhibit D is a summary of the sustainable building practices that will be employed in the Project. These practices include construction of a "cool roof", self-contained storm water retention and control system and energy efficient, renewable, and, where feasible, recyclable, materials.

3. EXTERIOR LIGHTING DETAILS

In response to comments raised from neighboring residents, the Applicant has committed to provide supplemental lighting in the public alley that runs to the south of the Site. While it is contemplated that the lighting fixtures would be mounted along the south elevation of the Project, the Applicant continues to study the most appropriate and efficient system. The Applicant remains mindful that the purpose of the lighting is to enhance security for users of the alley system, while minimizing direct impact/spillover of light into the windows of neighboring residents. Prior to the public hearing, the Applicant will provide examples of the contemplated lighting fixtures.

4. DETAILS OF OFF-SITE IMPROVEMENTS

Over the course of the next few months leading to the public hearing, the Applicant will endeavor to finalize all formal aspects of the financial and in-kind arrangements it has proposed as part of its community benefits package. The Applicant will continue to update OP as progress is made toward this end. To that end, the Applicant is awaiting a signed letter agreement from the Super Leaders program confirming the use of a \$10,000 contribution from the Applicant explicitly for youth

leadership programs at Eastern High School. The Applicant is also in process of formalizing documentation with the District of Columbia Department of Employment Services and Department of Small and Local Business Development, with Eastern High School regarding the basketball court repairs proffered, with the Mt. Moriah Baptist Church and the Drummond Condominium regarding financial contributions to directly fund exterior renovations to the buildings neighboring the Site to the east and west, and with the neighbors in Square 1096 regarding alley repairs.

IV. EXAMINATION OF BENEFITS PACKAGE

In addition to the issues raised at the November 13 public meeting, the Applicant has met with OP, ANC 6B, representatives of Eastern High School and various neighbors within Square 1096 regarding the Project and suitable community enhancements within the immediate area of the Property.

In sum, the Applicant offers the following updated summary of the Project's amenities and public benefits consistent with the standards established in §2403 of the Zoning Regulations.

§ 2403.9(a) - Urban Design, Architecture, Landscaping, or Creation or Preservation of Open Spaces

- A. Massing, design and materials of Project to be compatible with surrounding vernacular and minimize bulk of building.
- B. Primary architectural treatment/articulation and masonry materials to be employed along all four Project elevations
- C. Extensive formal landscaping along East Capitol Street, with coordinated plantings in front of adjacent buildings to east and west
- D. Landscape buffers along east and west property lines to maximize privacy to Project and neighboring properties
- E. Focused plantings along rear/alley property line to screen and minimize impact of Project to neighboring property owners to south of Site

- F. Removal of air conditioning machinery to roof of building to minimize visual and noise-related intrusion.

§ 2403.9(b) - Site Planning and Efficient Land Utilization

- A. Footprint of Project maximizes light and air to residential units
- B. Site planning reflective of /responsive to prominent institutional use (Eastern High School) located immediately across East Capitol Street from Property
- C. Project located to minimize impact to neighboring property owners to east and west (side yard setback far in excess of minimum required + landscape buffering)
- D. Project's impact on properties to south, across alley, also minimized/mitigated through landscape buffer, enhanced architectural treatment and materials

§ 2403.9(c) - Effective and Safe Vehicular and Pedestrian Access, Transportation Management Measures, Connections to Public Transit Service, and Other Measures to Mitigate Adverse Traffic Impacts

- A. Project will provide significant off-street parking (1 parking space per 1.16 units) where none currently exists
- B. Close proximity of Project to Metrorail and Metrobus access
- C. Project will have inconsequential impact on traffic
- D. Project will involve significant enhancements (repaving, installation of building-mounted lighting) to public alley system in Square 1096

§ 2403.9(d) - Historic Preservation of Private or Public Structures, Places, or Parks

Not Applicable

§ 2403.9(e) - Employment and Training Opportunities

- A. Commitment to enter First Source Employment Agreement
- B. Commitment to enter DSLBD Memorandum of Understanding

§ 2403.9(f) - Housing and Affordable Housing

- A. Replacing vacant, obsolete apartments with no off-street parking with new apartment building with ample structured parking
- B. Project will contain 134 units of varying size and parking for 113 vehicles

- C. Not less than 11 deed-restricted housing units (approx. 8 percent of total) provided (@ 80% Metro AMI)

§ 2403.9(g) – Social Services/Facilities

- A. \$10,000 contribution to Brig Owens "Super Leaders" mentoring and youth leadership program at neighboring Eastern High School
- B. \$15,000 contribution toward exterior improvements to proposed seniors housing building adjacent to Property operated by Mt Moriah Baptist Church

§ 2403.9(h) - Environmental Benefits – See Exhibit D

- A. Use of energy-efficient and environmentally-sustainable building materials and appliances in development and construction of Project
- B. Installation of "cool roof" to reduce heat island effect
- C. Installation of on-site filtration system for storm water before release

§ 2403.9(i) - Uses of Special Value to the Neighborhood or the District of Columbia as a Whole

- A. New residential construction to replace obsolete, dilapidated and vacant use of Property
- B. Resurfacing and repair or replacement of equipment for 2 community basketball courts at Eastern High School
- C. Installation of four trash receptacles at corners of Square 1096, if permitted by DC Department of Public Works. Alternatively, installation and perpetual trash maintenance of two trash receptacles along East Capitol frontage of Property.

§ 2403.9(j) - Other Public Benefits and Project Amenities

- A. \$15,000 contribution toward exterior improvements to Drummond Condominium building located adjacent to Property

V. FLEXIBILITY REQUESTED FROM THE PROVISIONS OF THE ZONING REGULATIONS

The PUD process was created to allow greater flexibility in planning and design than may be possible under conventional zoning procedures. Under §2405.7 of the Zoning Regulations, the Commission may approve any use that is permitted as a special exception or that would otherwise require the approval of the Board of Zoning Adjustment. Further, §2405.8 provides that the Zoning Commission is not required to apply the special exception standards normally applied by the Board. To that end, the Applicant requests flexibility from the following provisions of the Zoning Regulations:

A. PUD AREA REQUIREMENTS (§2401.1(b))

Pursuant to §2401.1(b) of the Zoning Regulations, a minimum area of one acre is required for a planned unit development proposed within an R-5-B District. The Commission is authorized, per §2401.2, to waive up to 50 percent of this threshold area requirement upon a finding by the Commission after a public hearing that the proposed project is of exceptional merit.

In the present case, the lot area for the Site is 42,629 square feet, just under the 43,560 square feet (1 acre) requirement. As will be demonstrated further at the public hearing, the Commission is justified in its slight waiver of the minimum area requirement in the present case based upon the very beneficial proposed residential use of the Site, the Project's enhanced architectural and site planning elements, and its extensive community benefits proposal.

B. PERCENTAGE OF LOT OCCUPANCY (§403.2)

The Application includes request for flexibility from the maximum lot occupancy provisions in the R-5-B Districts. Whereas 60 percent lot occupancy is permitted as a matter of right, the Project proposes to occupy a total of 66 percent of the Site. Despite its technical noncompliance, the Project provides ample light and air for its residents. Given its roughly accoridian-shaped footprint above the first floor, all units have generous access to natural light. In fact, a significant number of units include private balconies and terraces.

Flexibility regarding percentage of lot occupancy allows the Applicant to design the most efficient residential building footprint and to orient the layout of the building in such a way as to maximum exposure to natural light.

C. REAR YARD (§404.1)

Based upon the 49.9 foot proposed building height for the Project, the Zoning Regulations normally require a minimum rear yard of approximately 16 feet 7.5 inches. The Applicant is able to provide a rear yard measuring only approximately three feet. In support of its request for flexibility from this provision, the Applicant notes the following: (1) the rear elevations of the buildings located to its immediate south are not closer than 120 feet away from the rear of the proposed Building; (2) the side yards provided to both east and west far exceed the required dimension; (3) landscaping is proposed along the rear elevation to minimize the appearance of the Project as well as to

enhance the privacy of properties to the South; and (4) masonry construction and architectural detail will be carried around from the front of the Project to the main elevations of the rear of the Project to further improve the view shed of properties to the south of the Site.

D. ROOF STRUCTURES (§411)

Given the footprint of the Project, the Applicant proposes to provide a total of three penthouse enclosures on the roof of the Project to enclose stair towers and elevator machinery as well as other mechanical equipment. While §411.3 provides that all such equipment should normally be placed in a single enclosure, the Applicant requests flexibility for multiple structures as a matter of efficiency and to minimize the visual impacts of the roof structure to neighboring properties. Rather than attempt to connect by screen walls these separate elements that are required to be enclosed, the Applicant proposes a total of three structures, each stepped back in at least a 1:1 ratio from the building edge. By avoiding the use of screen walls, the Applicant significantly reduces the mass, and appearance thereof, of the penthouse structure(s). As will be demonstrated at the public hearing, the penthouse structures to be provided will be less than the permitted maximum building height and area, will be architecturally treated to minimize their appearance, and will be setback from the building edge in compliance with the Zoning Regulations. For all these reasons, flexibility from the requirements of §411 is appropriate in this case.

E. LOADING (§2201)

The Applicant also requests flexibility from the requirement that an apartment house provide a loading berth of at least 55 feet in depth and service/delivery loading space of 20 feet in depth. In lieu of these requirements, the Applicant proffers a combination loading berth/delivery space area of 48 feet in depth and 20 feet in width, capable of accommodating all but the largest of tractor trailers. As provided in more detail in the Traffic Impact and Parking Study, based upon research conducted for similarly-sized residential projects, the combination space proposed in the Project will be adequate for all but the rarest of occurrences, in which case provision can be made for temporary parking and loading from East Capitol Street. For all these reasons, flexibility is requested from a strict application of the loading regulations.

The Applicant has made every effort to provide a significant level of detail in the drawings. Nonetheless, some additional flexibility is necessary that cannot be anticipated at this time. Specifically, the Applicant requests additional flexibility in the following areas:

- (1) 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 buildings;
- (2) 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; and
- (3) To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, window locations or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

VI. APPLICATION SATISFIES FILING REQUIREMENTS FOR CHAPTERS 24 AND 30

As provided through the Application materials and this Supplemental Statement, including the Certification included as Exhibit E, the Application satisfies the filing requirements established in §§ 2406 and 3013 of the Zoning Regulations.

VII. THE APPLICANT REQUESTS APPROVAL


For all the foregoing reasons, and as set forth in the Application materials, Comstock East Capitol, LLC, submits that the consolidated PUD and Zoning Map amendment application meets the standards set forth in Chapter 24 of the Zoning Regulations; is consistent with the purposes and intent of the Zoning Regulations and Zoning Map; will enhance the health, welfare, safety and convenience of the citizens of the District of Columbia; satisfies the requirements for approval of a consolidated PUD and Zoning Map amendment; provides significant public benefits and project amenities; and advances important goals and policies of the District of Columbia. Accordingly, the Applicant requests that the Zoning Commission schedule the PUD and Map Amendment application for public hearing at its earliest opportunity.

Furthermore, the Applicant requests that the Commission determine at said public hearing that the Project is not inconsistent with the Comprehensive Plan, that the value of the benefits provided by the Project exceeds any development incentives requested, and that the Project has no adverse effects on the community, and thus approve the Application.

Respectfully submitted,

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Dennis R. Hughes

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