

June 25, 2007

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VIA HAND DELIVERY

District of Columbia Zoning Commission
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Zoning Commission Case No. 06-34
Comstock East Capitol, L.L.C.
Post-Hearing Submissions

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Dear Members of the Commission:

Pursuant to section 3024.1 of the Zoning Regulations, the enclosed supplemental materials are submitted on behalf of Comstock East Capitol, L.L.C., Applicant in the above-referenced case, as requested by the Zoning Commission at its June 18, 2007, public hearing. These supplemental materials respond to questions and comments received from the Commission, including providing additional information regarding the Project's package of community benefits, and clarifying the nature and extent of the Applicant's commitment toward certain of said benefits and project amenities.

I. Community Benefits- Summary of Elements of Package and Status:

Throughout the course of the application and hearing process, the Applicant has worked with a number of community stakeholders to craft a varied and comprehensive collection of benefits for the surrounding community. This process has been one of extensive interaction between the Applicant, its immediate neighbors, representative community organizations and potential recipients of funds and in-kind assistance from the Applicant. Given this ongoing dialogue over the course of several months, a number of elements included in the benefits package have changed and evolved. For ease of reference, the Applicant summarizes its proposed package of community benefits in the table below, and, where applicable, in the attached exhibits.

ZONING COMMISSION
District of Columbia
CASE NO. 06-34
EXHIBIT NO. 52

BENEFIT PROPOSED	NATURE	STATUS
Affordable Housing	Approx. 9,000 sf / 11 units Deed Restricted (mix of studio, 1BR and 2BR units)	To be administered per program details (See <u>Exhibit A</u>)
Eastern High School (DC Public Schools)	Resurfacing and replacement of equipment for 2 community basketball courts.	Letter of Acceptance/Agreement received from DC Public Schools
Landscaping – A Street, SE, residences	Landscaping to be undertaken by Applicant on properties in Square 1096 fronting the north side of A Street, SE. \$500 allowance per household, \$11,000 cap.	Escrow Arrangement to be established/ funded by Applicant per terms of Escrow Agreement, which shall be executed and submitted to the record prior to final approval action by the Commission (See <u>Exhibit B</u>)
Repairs/Upgrades to Public Alley	Repair and resurface alley, installation of building mounted lighting	Applicant has met with DC DOT and received verbal approval for concept pending permitting.
Mt Moriah Church – Seniors Housing	\$15,000 Contribution toward exterior improvements to proposed seniors housing building adjacent to Property.	Letter of Acceptance/ Agreement received.
Drummond Condominium	\$15,000 Contribution toward exterior improvements to building located adjacent to Property.	Letter of Acceptance/ Agreement received.
Super Leaders	\$10,000 Contribution to mentoring and youth leadership program at Eastern High School.	Letter of Acceptance/ Acknowledgement received.
Trash Receptacles	Applicant to install and perpetually maintain two trash receptacles along East Capitol frontage of Property.	Maintenance to be ensured per Condominium Documents
School Enhancements	Enhancements to exterior/grounds/playing fields of Eastern High School and/or Eliot Junior High School, to be undertaken by Applicant (not to exceed \$25,000)	Applicant to coordinate with DC Public Schools. These school enhancements to be completed by issuance of final Certificate of Occupancy
First Source Employment	Commitment to enter Agreement with DC Department of Employment Services (DOES)	Draft Agreement executed by Applicant and submitted to DOES for approval (fully-executed Agreement to be submitted to Commission by issuance of final Order
Local, Small, Disadvantaged Business Enterprises (LSDBE)	Commitment to enter Memorandum of Understanding with DC Department of Local Business Development (DLBD)	Draft MOU executed by Applicant and submitted to DLBD for approval (fully-executed MOU to be submitted to Commission by issuance of final Order

II. Clarifications of Applicant's Commitments

During the course of the public hearing, the Commission requested clarifications of various certain details of the Applicant's package – from sustainable development initiatives, to landscaping maintenance. Included herein are further details of the Applicant's commitments to these programs.

A. *Sustainable Design and Development*

In its pre-hearing submission to the Commission on November 28, 2006 (Exhibit D therein) and through its testimony at the public hearing, the Applicant described a number of sustainable design and development initiatives it contemplates for the Project. At the Commission's request, the Applicant has further studied the details of these commitments and also caused its sustainable development objectives to be reviewed for consistency with the US Green Building Council's LEED criteria for New Construction (understanding that no LEED certification program currently applies to the type of multi-family residential construction envisioned by the Application). As described in the attached Exhibit C, the Project, as proposed to and reviewed by the Commission, may be able to attempt up to 23 LEED-equivalent points based upon the LEED New Construction rating system. Given the complications surrounding the LEED review and certification process as well as the current absence of directly applicable LEED programs to the type of residential product proposed herein, the Applicant prefers to commit to undertaking the sustainable design and development initiatives included in its filings with the Commission, rather than proceeding through a LEED certification process.

B. *Landscaping*

Noting that Project includes extensive landscaping to be installed both on the Property as well as in various offsite locations, the Commission expressed interest in learning the Applicant's intentions and expressions of commitment for maintaining these plantings. The proposed maintenance responsibility for each area is set forth below:

1. Onsite and public space in front of the Property: This area will be maintained by the Applicant or successors for the life of the Project, such maintenance to include grass cutting, watering as needed, replacement of installed plant materials as needed, including seasonal color beds, and clean up of trash as needed, including the regular maintenance and emptying of the two trash receptacles to be placed in the public space along the front of the Property.
2. Public Space to the side and front of Mount Moriah Baptist Church proposed seniors living units (2 17th Street, SE) and in their rear yard along the loading dock screening wall: The plantings to be placed in this area will be maintained by the Applicant or successors for a period of two years from the time the plantings are installed so long as the Mt. Moriah property is still planned for senior housing units. Such maintenance to include watering and replacement of plant materials as needed.
3. Public Space to the front of 22-32 17th Street, SE: The plantings to be installed will be the responsibility of the neighboring property owner to water

and maintain the plantings and the Applicant or successor will replace plant material for up to one year following installation upon a showing by property owner that proper maintenance and watering was provided.

4. Public Space to the side and front of 1 18th Street, SE: The plantings to be installed will be the responsibility of the neighboring property owner to water and maintain the plantings and the Applicant or its successor will replace plant material for up to one year following installation upon a showing by neighboring property owner that proper maintenance and watering was provided.
5. Private Planting Strip in the area of the alley adjacent to the parking spaces of 1 18th Street, SE: The plantings to be installed will be watered and maintained by the Applicant or its successor for a period of one year including replacement of plant material for up to one year following installation, after which time the maintenance will be the responsibility of the abutting property owner.
6. Public Space to the front of 7 18th Street, SE: The plantings to be installed will be the responsibility of the neighboring property owner to water and maintain the plantings, and Applicant or its successor will replace plant material for up to one year following installation upon a showing by neighboring property owner that proper maintenance and watering was provided.
7. A Street Residences: If desired by any resident on the north side of A Street, SE, within Square 1096 (#1700-1738), the Applicant or its successor will provide for the installation of up to \$500 of landscaping on each property. Please see Escrow Agreement at Exhibit B. It will be the responsibility of said property owner to water and maintain the plantings, and the Applicant or its successor will replace plant material for up to one year following installation upon a showing by property owner that proper maintenance and watering was provided.

C. Alley Improvements

The cracks and potholes in the public alley running through Square 1096 will be repaired by the Applicant utilizing standard patching procedures. In addition, the entire alley will have a 2" layer of asphalt placed as an overlay for the final surface. At the edge of the alley along private property the repairs will be performed in such a manner to ensure that the repair work does not create a situation that results in standing water. The Applicant will continue to work with the DC Department of Transportation regarding these improvements. In addition, the Applicant commits to placing and grading fresh gravel if needed and if agreed to by the owners of the existing private gravel drive. This work will be completed before the issuance of the 65th residential certificate of occupancy for the dwelling units within the Project.

Building mounted lighting will be installed by the Applicant below the first floor windows for lighting the rear wall landscaping area and between the first and second floor

windows to provide lighting of the alleyway. The higher wall-mounted fixtures to provide lighting for the alleyway are contemplated to be Shaper Lighting model 682-WP Series “floating wedge” fixtures, or equivalent, which will act to minimize the direct light visible from the rear of the residences on A Street.

D. Construction Traffic Management

As a result of its dialogue with ANC 6B and with ANC 6A to address potential neighborhood congestion during construction of the Project, the Applicant makes the following commitments to the Commission and to its neighbors, ANC 6B and ANC 6A:

1. **Construction Traffic** – Contractors shall use traffic routes avoiding C Street, NE and 17th Street, NE. Routes to be utilized include Southeast Freeway (395), Anacostia Freeway (295), East Capitol Street, Benning Road, Oklahoma Ave, 22nd Street NE, Pennsylvania Ave, Potomac Ave, 19th Street SE, and possibly Barney Circle and/or RFK Stadium access points with all routes to be approved by DC DOT.
2. **Community Liaison** – Prior to issuance of excavation permit, the Applicant shall designate a representative to be the key contact for interaction with members of the community regarding construction. The representative will have a local office, fax and voice mail and be accessible during all business hours. The Applicant shall make reasonable attempts to provide community representatives with schedules and information regarding large deliveries.
3. **Community Tagging** - The Applicant shall make reasonable attempts to implement a job-site ID system whereby construction vehicles that are parked on or in front of the site or that must idle for extended periods on or in front of the site be given an identifying sign or placard to be placed in the windshield of the vehicle during the time that it is on or in front of the project site. Such ID system would facilitate community identification of vehicles that are associated with the Project and enable community members to identify and describe to authorities, vehicles that are on or around the site that are not properly identified and may cause a potential hazard.

E. Other Commitments

1. Condominium Documents

As requested by the Commission, when the Applicant proceeds to subjecting the construction to a condominium regime in the District of Columbia, the Applicant commits that it will included within the condominium documents or rules and regulations, where appropriate, language (i) creating a schedule for resident move-ins and move-outs, and (ii) directing that the maximum permissible size for delivery trucks to access the Project’s loading facilities is 34 feet in length, and that for any vehicle exceeding the maximum length a temporary permit will have to be obtained to allow parking/loading from East Capitol Street.

Per the Commission's query, the Applicant also commits to include within said condominium documents language directing that the condominium association shall be responsible for the landscaping obligations set forth in Paragraph B1 above.

2. Balconies

As a result of its discussions with representatives of ANC 6A and specifically in response to Paragraph 6 of ANC 6A's letter to the Commission, the Applicant has determined to make certain revisions to the design of the balconies provided along the east and west elevations of the Project. As shown on the drawings attached as Exhibit D, these revisions include installation of a bracket element and opaque screening of the underside of the balconies. The brackets (of similar materials to the cornice elements) respond to ANC 6A's request for design treatment of the balconies.

Finally, the Applicant submits copies of its powerpoint presentation given at the June 18 public hearing, including details of its materials board (all at Exhibit E). 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, its first in the District of Columbia. To that end, the Applicant is delighted to have the support of ANC 6B, ANC 6A, the Office of Planning, the Department of Transportation, and a significant number of its neighbors in Square 1096. Likewise, the Applicant appreciates the opportunity offered by the Commission to clarify issues raised by the Commission. The Applicant requests that the Commission approve its application. Please do not hesitate to contact the undersigned with any questions.

Sincerely,
HOLLAND & KNIGHT LLP


Dennis R. Hughes

Enclosures

cc: Advisory Neighborhood Commission 6B
Advisory Neighborhood Commission 6A
DC Office of Planning