

Allison Prince
aprince@goulstonstorrs.com
202-721-1106 Tel

Christine Roddy
croddy@goulstonstorrs.com
202-721-1116 Tel

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VIA ELECTRONIC DELIVERY

Anthony Hood, Chairperson
 D.C. Zoning Commission
 441 4th Street NW, Suite 210
 Washington, DC 20001
 zcsubmissions@dc.gov

Re: Zoning Commission Case No. 04-14B: Procedural Order

Dear Chairman Hood and Members of the Commission:

The Applicant received comments from the Office of the Attorney General on its proposed procedural order on November 28, 2012. Included herein are revisions to the order to respond to those comments.

| Proffer | Condition |
|---|---|
| <p><u>Finding of Fact No. 34(a)iv-viii</u></p> <p>iv. The building will be surrounded by significant green/open spaces, including an Esplanade and Anacostia Plaza. Approximately 20,000 square feet of land to its east is being reserved as green space and will support the development. Exclusive of the green space to the east, Phase One maintains a lot occupancy of approximately 46%.</p> <p>v. The proposed Esplanade will wind along the Anacostia waterfront as well as along the retail storefronts. It incorporates seating along the pathway to encourage individuals to sit, relax, and take in the views of all of the activity along the water. The Esplanade will</p> | <p>The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit 38 of the record ("Plans"), as modified by the guidelines, conditions, and standards of this Order.</p> |

ZONING COMMISSION
 District of Columbia

CASE NO. 04-14B

EXHIBIT NO. 43

consist of hardscape and plant materials that speak to the site's history, both natural and industrial, while looking to the site's future as a vibrant urban community set in a beautiful natural environment. A boardwalk forms the riverside edge of the Esplanade along its length, relating this new construction to the design vernacular of the adjacent built projects at Diamond Teague Park and The Yards. The railings that are needed at the water's edge will have a unique design but will fall into the same family of materials and forms as those of the adjacent parks and footbridge, providing a sense of continuity across the Anacostia Waterfront. Concrete blocks and gabion walls are among the options for site walls and seating and will lend the Esplanade a note of rugged industrial design.

vi. Along the Esplanade will be various "green" spaces that will have dual roles – they will serve as a part of the stormwater management system and filter the water draining from the site, and will provide lush green spaces to accent the beautiful landscaping of the Esplanade. The large green space just to the west of the plaza between the Esplanade and the River will be a large bio-filter garden, treating stormwater runoff from the site's impervious surfaces and building roof. The bio-filter garden will be filled with native perennials, shrubs and trees typical of a Mid-Atlantic riparian environment. Just to the west of the biofilter garden, the "River Garden" will be a space where the community can reach the river's edge and inhabit an area with seating, stairs and lush planting evocative of the river environment. The portion of the Esplanade extending for the length of the Phase One building will be constructed prior to the issuance of the certificate of occupancy for the Phase One building.

vii. To the east, the Esplanade will connect

with the pier leading to the Earth Conservation Corps. East of the pier, is a stretch of the Anacostia waterfront where the District has just completed a portion of the Anacostia Riverfront Trail that will link the Project to The Yards. Once complete, there will be a continuous pedestrian pathway along the Anacostia River. This will provide access to the waterfront, but also create a fluidity among the developments that will allow pedestrians to move between developments with ease. To the west, the Esplanade will provide for future extension toward South Capitol Street. The Esplanade will be constructed in phases corresponding to the construction of each of the four buildings.

viii. At the very eastern end of the site, just north of the Esplanade, is the Anacostia Plaza. The Plaza has several different functions: a purely pedestrian walkway providing access and views between the ballpark and the river; a passive recreation space for residents and visitors; an area that preserves the First Street viewshed and provides an elevated vantage point of the River. It will also provide an area for outdoor dining, whether in connection with informal picnics or with sidewalk cafes associated with one of the restaurants located in the retail space. The plaza design conveys a contemporary urban attitude is consistent with the Phase I building architecture and the site's surroundings. A strong, linear paving design emphasizes the connection between the ballpark, Potomac Avenue, and the Anacostia. The large opened paved area provides clear views from the Ball Park Grand Stair to the River and will allow for café or restaurant seating. On the east side of the plaza a grove of shade trees with seating and stone dust paving will provide relief from summer sun. A wide gap in the trees, aligned with First Street, provides an open view down First Street to the

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| <p>Anacostia River. An area for an outdoor bar has been reserved to allow a potential restaurant tenant to move forward with plans to provide outdoor restaurant seating and service; however, the tenant will have the opportunity to further refine the plans for the design of the bar.</p> | |
| <p><u>Finding of Fact No. 34(a) and (a)(i)</u> a. Phase One: The Phase One building is located on the eastern end of the site and immediately adjacent to the Earth Conservation Corps pump house. Whereas the initial PUD proposed a commercial building for the First Phase of development, the First Phase is now a residential building. The current market is prime for residential development and residential development will provide the critical mass of people necessary in order to support future office and retail uses. This phase will also include a significant amount of ground-floor retail space.</p> <p>i. The Phase I residential building will be approximately 94.85 feet tall (9 stories), with ground floor retail, and consist of approximately 300-350 residential units, 286 below grade parking spaces, and approximately 300,000 square feet of gross floor area. Approximately 22,553 or 8% of the residential gross floor area, will be dedicated to affordable housing for households with an annual income no greater than 80% of the Annual Median Income. Approximately 18,650 square feet of gross floor area will be dedicated to retail use while approximately 281,050 square feet will be dedicated to residential use.</p> | <p>The Applicant shall reserve a minimum of 42,955 square feet of residential gross floor area in the greater PUD for households having an income not exceeding 80% of the Area Median Income ("AMI") for the Washington, DC Metropolitan Statistical Area (adjusted for family size).</p> |
| <p><u>Finding of Fact No. 54</u> The Applicant responded to each of DDOT's comments at the public hearing, noting that (1) Phases Three and Four would only have a First Stage PUD approval and no construction would be permitted until a Second Stage PUD was approved; accordingly, it was appropriate</p> | <p>The Applicant shall implement a transportation management plan with the following components in connection with Phase One: A. During construction, the Applicant will maintain or coordinate relocation of any existing bus stops at the Applicant's expense;</p> |

to include the phases in the application; (2) the Applicant agreed not to lease excess parking spaces without providing DDOT with the proper analysis; (3) the Applicant met with DDOT and incorporated its comments into the plans presented to the Commission; (4) the Applicant agreed with DDOT's suggestion of providing a performance monitoring plan but it did not agree that it needed to be performed for at least three years. The Applicant stated that if it were within 10% of its target numbers after its first analysis, no further monitoring should be required; and (5) the Applicant believes its proposed Transportation Demand Management plan is appropriate and that its scope should not be expanded to include additional measures unless it proves to be ineffective.

B. The site design complies with zoning requirements to provide bicycle parking/storage facilities.

C. The development will unbundle all parking costs from the cost of lease or purchase. Parking costs will be set at no less than the charges of the lowest fee garage located within ¼ mile.

D. The Applicant will post all TDM commitments on-line prior to issuance of a certificate of occupancy, publicize availability, and allow the public to see what commitments have been promised.

E. The Applicant will identify a TDM leader and provide DDOT and Zoning Enforcement with annual TDM Leader contact updates.

F. The Applicant will provide website links to CommuterConnections.com and goDCgo.com on developer and property management websites.

G. The Applicant will provide an on-site business center to residents with access to copier, fax, and internet services.

H. The Applicant will provide a one-time membership fee subsidy in a car sharing program for each residential unit.

I. The Applicant will provide a monitoring report to DDOT no later than one year after Phase 1 reaches 90% occupancy. The monitoring report will document vehicular traffic generated by the site during the AM and PM commuter peak hours. The documentation provided in the monitoring report will include:

- A summary of the data collected, methodologies used. Detailed counts will be attached as an Appendix.
- A comparison table of the traffic counts and the forecasted volumes from the Transportation Impact Study ("TIS").
- A table showing the results of the parking demand counts.

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| | <ul style="list-style-type: none"> o A list of Transportation Demand Management (“TDM”) measures in place and a list of changes to the TDM plan, if necessary. <p>Traffic counts for the monitoring report will be conducted on a Tuesday, Wednesday or Thursday when DC Public Schools and Congress are in session, during the AM and PM commuter peak periods (6:30 to 9:30 AM, and 4:00 to 7:00 PM). The counts will be compared to the peak hour projections contained in the TIS. In the event that the measured vehicular traffic exceeds the projections in the TIS by 10%, the Applicant will include an updated list of TDM measures designed to bring vehicular trips back to their forecasted levels.</p> <p>In addition to the vehicular counts, the parking demand for Phase 1 will be documented. During the same time period of the traffic counts, the number of cars parked on Phase 1 will be counted per hour, from 6 am to 10 pm.</p> <p>Unless otherwise provided for above, the Applicant shall demonstrate compliance with its TDM in the required monitoring report submitted referenced in subparagraph I.</p> |
| <p><u>Finding of Fact 34(a)(vi)</u> The Applicant shall construct an environmentally friendly development.</p> | <p>The PUD shall be LEED-certifiable for each Phase of the development. This will be certified by the project architect within two years of securing the certificate of occupancy for each phase of development.</p> |
| <p>The Applicant will make good faith efforts to achieve the target goal of 35% participation by Certified Business Enterprises in the contracted development costs in connection with the design, development, construction, maintenance and security of the PUD project.</p> | <p>The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Department of Small and Local Business Development attached as Tab 5 to the Summary of Amenities and Benefits (Exhibit 94 in Case No. 04-14) to achieve the target goal of 35% participation by Certified Business Enterprises in the contracted</p> |

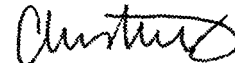
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| | <p>development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project, as specified in Case No. 04-14. An executed agreement must be proffered prior to issuance of a building permit.</p> |
| <p>The Applicant will make good faith efforts to achieve its goal of utilizing District of Columbia residents for at least 51% of the new jobs created by the PUD project.</p> | <p>The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services, attached as Tab 4 to the Summary of Amenities and Benefits (Exhibit 94 in Case No. 04-14), to achieve the goal of utilizing District of Columbia residents for at least 51% of the new jobs created by the PUD project. The Applicant shall also abide by the Employment and Skills Training Plan made part of that agreement, also attached as Tab 4 to the Summary of Amenities and Benefits (Exhibit 94 in Case No. 04-14). An executed agreement must be proffered prior to issuance of a building permit.</p> |
| <p>The Applicant has agreed to contribute \$800,000 to the District of Columbia for the construction, installation and/or on-going maintenance of Diamond Teague Park.</p> | <p>The Applicant shall demonstrate proof of having fulfilled the obligation to contribute \$800,000 to the District of Columbia for Diamond Teague Park prior to the issuance of a building permit.</p> |

Please feel free to contact the undersigned with any question.

Sincerely yours,



Allison Prince



Christine Roddy

CERTIFICATE OF SERVICE

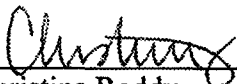
I hereby certify that on December 5, 2012, a copy of the attached letter and enclosures were served by electronic mail and first class mail on each of the following:

Karen Thomas
Office of Planning
1100 4th Street, SW
Suite E650
Washington, DC 20009
Karen.thomas@dc.gov

Advisory Neighborhood Commission 6D
1101 4th Street, SW
Suite W 130
Washington, DC 20024
6D@anc.dc.gov

Alan Bergstein
Office of the Attorney General
Land Use and Public Works Section
1100 15th Street, N.W., Suite 800
Washington, D.C. 20005-1707
Alan.bergstein@dc.gov

Sharon Schellin
Office of Zoning
441 4th Street, NW
Suite 210-S
Washington, DC 20001
Sharon.schellin@dc.gov



Christine Roddy