

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 16-02**  
**Z.C. Case No. 16-02**  
**DC Stadium, LLC**  
**(Consolidated Planned Unit Development @ Square 603S, Lot 800;**  
**Square 605, Lots 7 & 802; Square 607, Lot 13; Square 661N, Lot 800;**  
**Square 661, part of Lots 804 & 805; & Square 665, part of Lot 24)**  
**February 16, 2017**

Pursuant to proper notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on November 28 and December 14, 2016 to consider an application by DC Stadium, LLC (“Applicant”) for consolidated review and approval of a planned unit development (“PUD”) (the “Application”). The Commission considered the Application pursuant to Chapter 24 of the District of Columbia Zoning Regulations (1958), Title 11 of the District of Columbia Municipal Regulations (“DCMR”).<sup>1</sup> The public hearing was conducted in accordance with the provisions of Subtitle X, Chapter 3 and Subtitle Z, Title 11 of the DCMR (2016). The Commission approves the Application, subject to the conditions below.

**FINDINGS OF FACT**

**Application, Parties, and Hearing**

1. The project site consists of Square 603S, Lot 800; Square 605, Lots 7 and 802; Square 607, Lot 13; Square 661N, Lot 800; Square 661, part of Lots 804 and 805; Square 665, part of Lot 24; and closed portions of R Street, S Street, 1<sup>st</sup> Street, and Potomac Avenue in the Southwest quadrant of the District of Columbia (“Property”).
2. On January 19, 2016, the Applicant filed an application for consolidated review and approval of the Application to construct and operate a stadium that would be principally used by the DC United professional soccer team. (Exhibits [“Ex.”] 1, 1A-1H.) The Applicant requested development flexibility to provide no off-street parking facilities instead of the 1,450 required and to provide less than the loading facilities required. In addition, the Applicant sought special exception relief pursuant to 11 DCMR § 618 to establish the stadium use, which is neither permitted nor prohibited in the Mixed-Use Commercial Residential (“CR”) District in which the property is mapped.

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<sup>1</sup> Chapter 24 and all other provisions of Title 11 DCMR were repealed on September 6, 2016, and replaced with new text. However, because this Application was set down for hearing prior to that date, the Commission’s approval was based upon the standards set forth in Chapter 24.

3. On March 4, 2016, the Office of Planning (“OP”) filed a report recommending that the Application be set down for a public hearing. (Ex. 9.)
4. During its public meeting on March 14, 2016, the Commission voted to set down the Application for a public hearing. Notice of the public hearing was published in the *D.C. Register* on September 16, 2016 and was mailed to Advisory Neighborhood Commission (“ANC”) 6D and to owners of property within 200 feet of the Property. (Ex. 13, 14; 3/14/16 Transcript (“Tr.”) at 52.)
5. The Application was further updated by pre-hearing submissions that the Applicant filed on August 23, 2016 and October 13, 2016. (Ex. 10, 10A, 10B, 22, 22A, 22B.)
6. On October 24, 2016, the Applicant filed a request to continue the scheduled hearing to a later date to accommodate changes to the plans as part of an agreement with neighboring property owners, which the Commission granted. (Ex. 25.)
7. The Applicant further updated the Application with additional information filed on November 15, 2016. (Ex. 37, 37A, 37B.)
8. The Commission held a public hearing on the Application on November 28 and December 14, 2016. On behalf of the Applicant, the Commission accepted Jon Knight as an expert in architecture, Robert Schiesel as an expert in traffic engineering, David Schoenwolf as an expert in geotechnical engineering, and Anita Broughton as an expert in human health risk assessment and industrial hygiene. (Ex. 22A1, 22A2, 113, 114.) The Applicant offered testimony from these experts as well as from others.
9. The Applicant filed additional information on December 8, 2016 in response to questions and comments that arose during the November 28<sup>th</sup> hearing. Such information included responses to transportation issues, letters of intent for off-site parking spaces, examples of parking and transit options at stadiums in other cities, a final benefits and amenities list, a construction management plan, and a signage and graphics plan. (Ex. 97, 97A-97F.)
10. In addition to the Applicant, ANC 6D was automatically a party in this proceeding and submitted a resolution and report in opposition to the Application.<sup>2</sup>
11. At the public hearing, the Commission also heard testimony from District agencies, ANC 6D, and members of the public, the substance of which will be discussed elsewhere in this Order.
12. At the close of the public hearing, the Commission requested that the Applicant respond to some outstanding comments and questions from the Commission and the ANC and to work with the ANC to resolve some outstanding issues that arose during the course of the hearing. The Commission also asked OP and the District Department of Transportation (“DDOT”) to respond to the ANC’s testimony. (12/14/16 Tr. at 201.)

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<sup>2</sup> The issues and concerns raised in this and the other ANC 6D reports are discussed in the portion of this Order entitled, “ANC 6D Reports and Testimony.”

13. The Applicant responded to the Commission's comments and questions in a post-hearing filing that it submitted on January 23, 2017. The Applicant's post-hearing submission included a preliminary transportation operations and parking plan, information about a possible water taxi, excerpts from a noise study for the stadium, a summary of the environmental and health protection measures being undertaken before and during construction of the stadium, a rodent control plan, and summaries of meetings with the ANC. (Ex. 118, 118A-118E.)
14. OP, DDOT, the District Department of Energy and Environment ("DOEE"), and the Department of Health ("DOH") filed responses to the ANC's hearing testimony on January 23, 2017. (Ex. 121.)
15. DDOT filed responses supplemental to the ANC's hearing testimony on January 30, 2017. (Ex. 122.)
16. ANC 6D filed a response to the Applicant's post-hearing submission on January 30, 2017. (Ex. 123.)
17. At a special public meeting on February 16, 2017, the Commission deliberated on the merits of the Application and the outstanding material contested issues, specifically addressed each of the remaining issues and concerns as expressed in the ANC's January 30<sup>th</sup> filing, and it took final action to approve the Application by a vote of 5-0-0. (2/16/16 Tr. at 56.)
18. At the time it took final action, the Commission expressed concern over the manner in which the Applicant's draft order proposed to articulate the Commission's decision and provided guidance to the Office of the Attorney General as to the revisions needed.
19. By letter dated February 21, 2017, the Applicant requested permission to submit a revised draft order. The Commission granted the request and a revised order was submitted on March 10<sup>th</sup>. The Office of the Attorney General reviewed and revised the order and submitted the revised order for the Commission's review. A majority of the Zoning Commission members approved the issuance of this Order.

### **Overview of the Property**

20. The Property contains approximately 429,084 square feet of land area in the Buzzard Point neighborhood of the southwest quadrant of Washington. The Property is generally bounded by R Street S.W. and Potomac Avenue, S.W. to the north, T Street, S.W. to the south, Half Street, S.W. and an unimproved parcel to the east, and 2<sup>nd</sup> Street, S.W. to the west. (Ex. 37B.)
21. The area of the former 1<sup>st</sup> Street (that has been closed) is encumbered by an easement benefitting Pepco. For the stretch of former 1<sup>st</sup> Street between R and T Streets, an area that ranges from 68 to 83 feet wide and is 18 feet high cannot be built upon. The

easement also extends eastward onto part of former S Street (that also has been closed) that is within the Property boundary. (Ex. 37B.)

22. The Property is owned by the District of Columbia and is leased to the Applicant as part of the legislation that facilitated the creation of a new stadium for the DC United professional soccer team. The Property contains parking lots and other industrial uses that will be replaced. (Ex. 1.)
23. The surrounding area is a mix of uses. To the north across R Street and Potomac Avenue are a new Pepco substation (under construction) and a parking lot. Immediately beyond that is a major R-4 residential neighborhood. To the south across T Street is a parking lot slated for redevelopment. Across 2<sup>nd</sup> Street to the west is Fort McNair. Directly adjacent to the southeast is a Pepco facility, and to the east across Half Street is a concrete plant. Areas further to the south near the Anacostia River are slated for redevelopment. Nationals Park is located approximately one-third mile to the northeast. (Ex. 1, 37B.)
24. The Property is zoned CR and is included in the Capitol Gateway (“CG”) overlay district. Most properties immediately surrounding the Property are also zoned CG/CR. Properties located further to the south and east near the Anacostia River are zoned in the Waterfront (“W-2”) District and are also mapped in the CG overlay.
25. The Future Land Use Map (“FLUM”) of the Comprehensive Plan designates the Property for mixed-use High-Density Commercial/High-Density Residential use. The Generalized Policy Map (“GPM”) includes the Property in the Land Use Change Area category. (Ex. 1.)

### **The Project**

26. The Applicant proposes to redevelop the Property as a new stadium and ancillary facilities for the professional DC United soccer team (“Project”). The Project will consist of the stadium with associated office and retail and the adjacent public open spaces. The Project will have a density of approximately 0.94 floor area ratio (“FAR”), or approximately 403,130 gross square feet, a maximum height of 110 feet, and a lot occupancy of approximately 50%. (Ex. 37B.)
27. The stadium will be a bowl with pitched seating stands surrounding the field. The stadium will contain approximately 19,000 seats, ground floor retail, and team offices. The ground-level retail space, containing approximately 14,000 square feet, will occupy the east side of the exterior of the stadium. A two-story building on the south side of the exterior of the stadium will contain team offices, approximately 3000 square feet of ground-level retail, player locker rooms, and a bike valet. The northeast corner of the stadium will include ticket windows and the main entry gate. The team store also will be located at the northeast side of the stadium facing R Street. Additional entry gates will be located at the northwest corner of the stadium and the east side of the stadium at S Street,

- S.W. The Project will not include any on-site parking but will include loading facilities under the east stands. (Ex 37B.)
28. The publicly accessible areas surrounding the stadium will include many improvements. The area to the northeast of the stadium along Potomac Avenue extending from Half Street will include a landscaped public park and an open space/entry plaza for walking and gathering. The Applicant expects to activate this area on both game and non-game days with events such as live performances. Adjacent to the northwest entry gate and along the retail on the east side of the stadium will be a plaza for gathering and queuing. An additional open space/plaza for gathering and queuing will be located along the north side of the stadium and adjacent to the northeast entry gate and ticket windows. The plazas/open spaces will include various improvements, such as team-branding sculptures, that will further activate the space and the fan experience. All of these open spaces will be contained within the boundaries of the Project. (Ex. 37B.)
  29. Along the east side of the stadium, running from Potomac Avenue to T Street, will be a new 1<sup>st</sup> Street. This new 1<sup>st</sup> Street will be a private street open to the public. It will contain two traffic lanes, curbside parking, and sidewalks. The sidewalks between the street and the retail storefronts will be wide space to allow gathering and outdoor seating for the retail. The streetscape design elements for this street will mimic those of the public streets surrounding the Property. The new 1<sup>st</sup> Street will be closed to automobile traffic during soccer games and other large stadium events. (Ex. 37B.)
  30. Truck deliveries will access the stadium from the north via R Street and Potomac Avenue. A gate on the north side of the stadium perpendicular to R Street/Potomac Avenue corner will provide access to the loading facilities under the east side of the seating bowl. Trucks will head in and head out of the stadium's loading area from and to R Street. (Ex. 37B.)
  31. Pedestrian access to the stadium will be primarily via Potomac Avenue and the entry plaza at the northeast. However, secondary pedestrian access will be via 2<sup>nd</sup> Street from the north. It is expected that additional pedestrian access will occur via S Street from the east in the future with the construction of new infrastructure improvements along the waterfront. (Ex. 37B.)
  32. Bike parking will be accommodated at the stadium. The Project will provide at least 447 bicycle parking spaces in both the bike valet and elsewhere on the site with racks. This is in addition to bike racks that will be in the public space. (Ex. 97A; 11/29/16 Tr. at 23.)
  33. The public space surrounding the stadium but outside the Property's boundaries will include additional improvements to enhance and beautify the public space. In particular, along the west side of the stadium on 2<sup>nd</sup> Street, the public space will include two pocket parks. Another pocket park will be along the south side of the stadium on T Street. Additional tree boxes and other landscape elements will improve the public realm around the stadium. (Ex. 37B.)

34. The stadium will be used for events all year. The stadium will host approximately 20 regular-season home soccer games annually. In addition, the Applicant expects that the stadium will host other events such as music performances and other sporting events. (11/28/16 Tr. at 19-20.)
35. The Project will attain at least LEED-Gold certification. (Ex. 33.)

### **PUD Development Flexibility**

36. The Applicant requested flexibility from the parking and loading requirements of the Zoning Regulations in order to accommodate the proposed design of the Project, given the relatively small size of the site and the Pepco Easement that severely impacts site development. Specifically, the Project will provide no parking spaces on site instead of the required 1,450 parking spaces required by § 2101.1; and will provide two service and delivery spaces instead of the 30- and 55-foot loading berths and 100- and 200-square foot-loading platforms required by § 2201.1. As will be discussed in greater detail below, neither form of flexibility will result in any adverse effects on neighborhood parking or the transportation network. The majority of patrons will arrive via public transit, and the Applicant has secured, or will secure, sufficient off-site parking spaces – approximately 3,750 – to accommodate demand. Further, the loading facilities provided will accommodate the demand for loading in the Project and ample space for truck maneuvering will be available under the seating bowl and off the public streets. (Ex. 1, 37B, 97B.)

### **PUD Design Flexibility**

37. The Applicant also requested flexibility with respect to certain aspects of the design of the Project. These are identified in Condition A.6 below.

### **Special Exception Approval**

38. The Applicant requested special exception approval for a stadium use. A stadium use is neither permitted nor prohibited in the CR Zone District. Pursuant to 11 DCMR § 618.1 through 618.3, such “miscellaneous” uses are permitted in a CR Zone District as a special exception if the “use is appropriate in furthering the objectives of the CR Districts,” will “not adversely affect the present character and future development of the neighborhood and “no dangerous or otherwise objectionable traffic conditions will result. An application of this standard to the proposed stadium use is discussed in the conclusions of law that follow these findings of fact.

### **Project Amenities and Public Benefits**

39. As detailed in the Applicant’s testimony and written submissions, the proposed Project will provide the following project amenities and public benefits:

- a. Urban design, architecture, and landscaping. The Project exhibits the characteristics of modern urban design, architecture, and landscaping. The architectural style of the new stadium, contemporary-industrial, is borne out of its site context and the aspirations of becoming a transformational addition to the neighborhood. The design uses the steel support structure as a defining design element of the building with all other building elements becoming secondary in the design hierarchy. The stadium will be constructed using long-lasting durable materials meant to exhibit permanence and timelessness;
- b. Site planning and efficient land utilization, through the redevelopment of an industrial and underused site. The current industrial and parking uses on the Property are highly inefficient for a dense urban environment. The replacement of these uses with a prominent professional soccer stadium that will draw visitors from throughout the region to a central location that will allow for a better and more efficient use of this dense urban fabric; (Ex. 1, 37B, 42, 97F.)
- c. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:
  - i. Transportation demand management (“TDM”) plan as set forth in the Applicant’s Comprehensive Transportation Review, including various means to encourage the use of public transport as the primary means of access to the stadium; (Ex. 37A, 43.)
  - ii. At least 447 bicycle parking spaces, including a bicycle valet and parking elsewhere on and adjacent to the site of the stadium as well as a new Capital Bikeshare Station and bottomless corral for overflow; (Ex. 42, 97A; 11/29/16 Tr. at 23.)
  - iii. The development of a transportation operations and parking plan (“TOPP”); and (Ex. 37A, 43, 97A, 118A.)
  - iv. Loading activities to occur primarily on non-game and non-event days and underneath the stadium seating bowl to minimize potential automobile and pedestrian conflicts; (Ex. 37A, 43.)
- d. Employment and training opportunities, including a First Source Agreement, a Certified Business Enterprise Agreement, and a Project Labor Agreement; (Ex. 1, 97D.)
- e. Environmental benefits, including a commitment to design the Project to achieve LEED-Gold certification. In addition, the Project will include reduced parking footprint and secure bicycle storage space to promote alternative transportation to and from the site; infiltration basins with sediment chambers located below the playing field to reduce the volume of stormwater runoff from the site; use of low or no-flow fixtures throughout to reduce water consumption; use of

environmentally preferable building materials including those with high recycled content; and low- or no-VOC emissions; (Ex. 1, 42, 43.)

- f. Uses of special value through the implementation of a Community Benefits Agreement (Ex. 89), which include:
- i. A soccer club program at Amidon-Bowen Elementary School and Jefferson Academy Middle School;
  - ii. A program to encourage childhood literacy and healthy lifestyle in partnership with Amidon-Bowen Elementary and UNITY Health;
  - iii. The provision of free game tickets or offerings of a similar value to students at Jefferson Academy Middle School;
  - iv. Provide full scholarships to 25 low-income children aged 5-17 to attend a weeklong D.C. United summer day camp;
  - v. Bi-annually, identify skilled and qualified residents of ANC 6D aged 8-18 for invitation to sports clinics to qualify for scholarships to the D.C. United Training Program;
  - vi. Annually, purchase one full-page advertisement in each addition of a Southwest neighborhood newspaper, such as the “Southwester”;
  - vii. Provide a minimum of three community days for use of the Stadium for registered not-for-profits;
  - viii. Collaborate with the Department of Employment Services to provide young adults aged 16-25 in ANC 6D with summer youth and seasonal jobs
  - ix. Partner with the Near SE/SW Community Benefits Coordinating Council and other locally-involved organizations to engage ANC 6D residents for outreach for employment and training;
  - x. Provide free meeting room space for use by non-profit organizations in ANC 6D, subject to availability;
  - xi. Discuss opportunities for licensed food vendor space for residents in the Buzzard Point area that is consistent with the concessions partners’ operations;
  - xii. Use reasonable best efforts to ensure that selected food and beverage concessionaire provide at least eight stadium events for Near SE/SW Community Benefits Coordinating Council or a non-profit organization to operate a concession stand to support fundraising efforts to support specific Southwest community projects; and



- xiii. Contingent upon D.C. United identifying a sponsor to support a partnership with a healthcare provider, facilitate introductions between the Near SE/SW Community Benefits Coordinating Council, the District of Columbia, and other stakeholders regarding the establishment of a healthcare facility or services in the stadium area.

(Ex. 97D).

### **Compliance with the Comprehensive Plan**

40. The PUD will advance the goals and policies in the Land Use; Transportation; Economic Development; Urban Design; Parks Recreation & Open Space; Arts and Culture; and Lower Anacostia Waterfront/Near Southwest Area Elements of the District of Columbia Comprehensive Plan (“Plan”).
41. The Land Use Element of the Plan includes the following policies advanced by the Project:
  - **Policy LU-1.2.6: New Neighborhoods and the Urban Fabric** – On those large sites that are redeveloped as new neighborhoods (such as Reservation 13), integrate new development into the fabric of the city to the greatest extent feasible. Incorporate extensions of the city street grid, public access and circulation improvements, new public open spaces, and building intensities and massing that complement adjacent developed areas. Such sites should not be developed as self-contained communities, isolated or gated from their surroundings.
  - **Policy LU-1.3.1: Station Areas as Neighborhood Centers** – Encourage the development of Metro stations as anchors for economic and civic development in locations that currently lack adequate neighborhood shopping opportunities and employment. The establishment and growth of mixed use centers at Metrorail stations should be supported as a way to reduce automobile congestion, improve air quality, increase jobs, provide a range of retail goods and services, reduce reliance on the automobile, enhance neighborhood stability, create a stronger sense of place, provide civic gathering places, and capitalize on the development and public transportation opportunities which the stations provide. This policy should not be interpreted to outweigh other land use policies which call for neighborhood conservation. Each Metro station area is unique and must be treated as such in planning and development decisions. The Future Land Use Map expresses the desired intensity and mix of uses around each station, and the Area Elements (and in some cases Small Area Plans) provide more detailed direction for each station area.
  - **Policy LU-1.3.2: Development Around Metrorail Stations** – Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around

such stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas.

- **Policy LU-1.3.4: Design to Encourage Transit Use** – Require architectural and site planning improvements around Metrorail stations that support pedestrian and bicycle access to the stations and enhance the safety, comfort and convenience of passengers walking to the station or transferring to and from local buses. These improvements should include lighting, signage, landscaping, and security measures. Discourage the development of station areas with conventional suburban building forms, such as shopping centers surrounded by surface parking lots.
- **Policy LU-1.3.6: Parking Near Metro Stations** – Encourage the creative management of parking around transit stations, ensuring that automobile needs are balanced with transit, pedestrian, and bicycle travel needs. New parking should generally be set behind or underneath buildings and geared toward short-term users rather than all day commuters.
- **Policy LU-1.4.1: Infill Development** – Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create “gaps” in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.
- **Policy LU-2.1.2: Neighborhood Revitalization** Facilitate orderly neighborhood revitalization and stabilization by focusing District grants, loans, housing rehabilitation efforts, commercial investment programs, capital improvements, and other government actions in those areas that are most in need. Use social, economic, and physical indicators such as the poverty rate, the number of abandoned or substandard buildings, the crime rate, and the unemployment rate as key indicators of need.
- **Policy LU-3.1.2: Redevelopment of Obsolete Industrial Uses** Encourage the redevelopment of outmoded and non-productive industrial sites, such as vacant warehouses and open storage yards, with higher value production, distribution, and repair uses and other activities which support the core sectors of the District economy (federal government, hospitality, higher education, etc.).

The PUD will allow for the redevelopment of property previously identified by obsolete industrial uses and will revitalize the Buzzard Point neighborhood. Development of a Major League Soccer Stadium will facilitate revitalization of the under-utilized industrial area of Buzzard Point. In addition, the Project will concentrate development within a short walk of Metrorail stations and designed to encourage transit use while providing a creative parking solution for drivers. (Ex. 1, 1A, 9.)

42. The Project will advance the following policies of the Transportation Element of the Plan:

- **Policy T-1.1.4: Transit-Oriented Development** – Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points.
- **Policy T-1.2.3: Discouraging Auto-Oriented Uses** – Discourage certain uses, like “drive-through” businesses or stores with large surface parking lots, along key boulevards and pedestrian streets, and minimize the number of curb cuts in new developments. Curb cuts and multiple vehicle access points break-up the sidewalk, reduce pedestrian safety, and detract from pedestrian-oriented retail and residential areas.
- **Policy T-3.2.2: Employing Innovations in Parking** – Consider and implement new technologies to increase the efficiency, management, and ease of use of parking. These include consolidated meters, changeable parking meter fees by time of day or day of the week, shared-use parking, vertical/stacked parking, electronic ticketing of parking offenders and other innovations.

The PUD will result in improvements to the street network, bike and pedestrian facilities, and transit services in the Buzzard Point neighborhood. The stadium will incorporate a design and an operations plan that will encourage non-automobile transportation, and it will employ an innovative shared-parking scheme. (Ex. 1, 1A, 9.)

43. The Project will advance the following policies of the Economic Development Element:

- **Policy ED-1.1.4: Competitive Edge** – Maintain and enhance the District’s competitive edge relative to the Metropolitan Washington region and United States markets in such industry sectors as government, professional services, education, health care and tourism. This will require continued government support and incentives for economic development programs, government participation in local economic development projects and initiatives, and strengthened capacity among local economic development organizations, community development corporations, and workforce development groups.
- **Policy ED-2.3.2: Visitor Attractions** – Provide new and enhanced visitor attractions and entertainment venues in the District, particularly attractions that complement the traditional museums and monuments and draw more international visitors and young adults to the city. New attractions should create a clear identity for the District as the region’s major entertainment center.
- **Policy ED-3.1.5: Public-Private Partnerships** – Leverage the expenditure of public funds to produce private sector investments, including joint development on publicly owned land and redevelopment in areas considered to be high risks by investors. Support the involvement of local community development corporations in commercial development and revitalization efforts within these areas.
- **Policy ED-3.1.6: Revitalization Planning** – Link commercial revitalization strategies to capital budget priorities and larger neighborhood and transportation investment plans, including programs to improve transit to neighborhood centers.

The PUD will allow the development of a major league soccer stadium through a public-private partnership. This will result in significant investment toward revitalization of the Buzzard Point neighborhood and will help solidify the District's competitive edge in tourism in the region. Furthermore, the Applicant has entered into a First Source Agreement and a Certified Business Enterprise Agreement to provide jobs for District residents and for local and small businesses. (Ex. 1, 1A, 9, 42.)

44. The Urban Design Element of the Plan includes the following policies that the Project will advance:

- **Policy UD-1.3.1: DC as a Waterfront City** – Strengthen Washington's civic identity as a waterfront city by promoting investment along the Anacostia River, creating new water-related parks, improving public access to and along the shoreline, and improving the physical and visual connections between the waterfront and adjacent neighborhoods.
- **Policy UD-1.3.6: "Activating" Waterfront Spaces** – Encourage design approaches, densities, and mixes of land uses that enliven waterfront sites. Architectural and public space design should be conducive to pedestrian activity, provide a sense of safety, create visual interest, and draw people to the water.
- **Policy UD-1.3.7: Neighborhood Connectivity** – Improve the physical connections between neighborhoods and nearby waterfronts. Where feasible, extend the existing city grid into large waterfront sites to better connect nearby developed areas to the shoreline.
- **Policy UD-2.2.1: Neighborhood Character and Identity** – Strengthen the defining visual qualities of Washington's neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context.

The Project will: 1) bring a new high-profile professional soccer stadium to the neighborhood and city; 2) develop an underused and mostly vacant site; 3) promote the goal of infill development; 4) act as a major catalyst for redeveloping Buzzard Point and the Anacostia River waterfront pursuant to the Buzzard Point Vision Framework; and 5) contribute to the draw of a larger sports and entertainment district initiated by the Nationals Stadium by providing another large civic venue for year-round use. All of these facts will contribute to the policies in the Plan. (Ex. 1, 1A, 9, 42.)

45. The PUD will advance the following action from the Parks, Recreation, and Open Space Element of the Plan:

- **Action PROS-3.2.A: Anacostia River Park Improvements** - Work collaboratively with the federal government, the private sector, community and non-profit groups, and the Anacostia Waterfront Corporation to implement the open space improvement plans of the Anacostia Waterfront Initiative.

The PUD will include the creation of a new public park and other open space in the vicinity of the Anacostia Riverfront. (Ex. 1, 1A.)

46. The PUD will advance the following policy from the Arts and Culture Element of the Plan:

- **Policy AC-3.2.1: Promoting Cultural Amenities** – Promote the development of cultural amenities “beyond the Mall” in an effort to more fully capitalize on the economic benefits of tourism for District residents, businesses, and neighborhoods.

The PUD will result in the development of a major destination beyond the National Mall that, in addition to hosting professional sporting events, could host other arts and cultural activities. (Ex. 1, 1A, 9, 42.)

47. The PUD will promote the following policies from the Lower Anacostia Waterfront – Near Southwest Area Element of the Plan:

- **Policy AW-1.1.6: Pedestrian Orientation of Waterfront Uses** – Provide a high level of pedestrian amenities along the shoreline, including informational and interpretive signs, benches and street furniture, and public art.
- **Policy AW-1.1.7: Multi-modal Waterfront Streets** – Design streets along the waterfront to be truly multi-modal, meeting the needs of pedestrians, bicyclists, and transit users as well as motor vehicles. Safe pedestrian crossings, including overpasses and underpasses, should be provided to improve waterfront access.
- **Policy AW-1.2.2: Waterfront Cultural and Commemorative Sites** – Encourage the siting of new museums, memorials, civic gathering places, and cultural attractions on or near the Anacostia River as a way to catalyze revitalization and meet the demand for additional commemorative works without further crowding the National Mall and monumental core of the city. Such facilities should make the most of their waterfront locations and create an integrated system of gracious, beautiful, and vibrant places.
- **Policy AW-1.2.3: Waterfront Sports and Recreation Destinations** – Develop new destinations for sports, recreation, and celebration on or near the Anacostia waterfront. Ensure that these destinations are served by adequate and efficient transportation systems and infrastructure.
- **Policy AW-2.2.7: Buzzard Point** – Support the long-term redevelopment of Buzzard Point with mixed medium- to high-density commercial and residential uses. Recognize the opportunity for innovative design and architecture in this area, and for the creation of a unique urban waterfront.

The Project will facilitate the development of a professional soccer stadium in the Buzzard Point neighborhood, particularly with greater attention to the relationship of the stadium to surrounding character and circulation patterns. It will create a destination that

will encourage infrastructure and other development in Buzzard Point. Its design will have particular sensitivity to connecting the waterfront. (Ex. 1, 1A, 9, 37B, 42.)

48. The Project will advance policies embedded in the FLUM and the Generalized Policy Map (“GMP”) of the Plan. The Property’s use change from industrial, parking, and vacant to an active stadium and associated retail and public open spaces is consistent with the GMP’s goals of developing underutilized land with a high-quality environment. Further, the stadium is not inconsistent with the FLUM’s designation of the site as acceptable for High-Density Commercial and High-Density Residential mixed-use development. The current absence of residential uses does not mean that the Project is inconsistent with the FLUM. The FLUM is intended to “provide generalized guides for development and conservation decisions.” (10-A DCMR § 226.1.) The FLUM is “not a zoning map” nor “parcel-specific.” (10-A DCMR § 226.1(a).) When policies in the Comprehensive Plan, the Buzzard Point Vision Framework Plan (“BPVFP”) policies, and the District legislation enabling the stadium are considered, the Project is not inconsistent with the FLUM. Moreover, the mix of uses encouraged by the FLUM will likely be achieved upon the development of Parcel B, the development parcel east of 1<sup>st</sup> Street, S.W. between the new public park and S Street, S.W. and as indicated in the record. (Ex. 37B.)
49. The Project will align with and advance the goals of the BPVFP. Though the BPVFP is not part of the Comprehensive Plan and is not intended to be a small area plan adopted by the D.C. Council, it is intended to inform development decisions for the next 10-15 years to accommodate the long-planned growth of Buzzard Point, including stadium design parameters. The stadium will advance the urban design concepts for a mixed-use neighborhood by promoting neighborhood connectivity, improved environmental conditions, public realm improvements, and limited stadium parking. (Ex. 1, 42, 121.)

#### **ANC 6D Reports and Testimony**

50. At a regularly scheduled and duly noted public meeting on October 17, 2016, with a quorum present, ANC 6D voted to oppose the proposed PUD. ANC 6D submitted a resolution stating that, while it supports the concept of a stadium, it believes that there is an insufficient transportation plan for Buzzard Point as a whole and an insufficient operations plan for the stadium. ANC 6D also expressed concerns about vehicular, bicycle, and pedestrian routing; access to Buzzard Point; parking adequacy; transit availability and distance to the stadium; and conflicting events at both the stadium and Nationals Stadium. The resolution further expressed the ANC’s concerns about the implementation of best management practices for site clean-up and remediation. The ANC recommended the adoption of additional plans and practices to protect the health of nearby residents during site remediation and stadium construction. (Ex. 29.)
51. On November 21, 2016, ANC 6D filed a second report in opposition to the Application. The report reiterated the ANC’s general support for a stadium predicated on an unambiguous transportation plan, enhancement of the neighborhood to the north, and a strong contribution to the well-being of adjacent communities.

52. ANC 6D chairman, Andy Litsky, testified in opposition at the public hearing. In particular, the testimony focused on the ANC's concerns about transportation planning for Buzzard Point and the stadium's operations plan. The testimony also focused on the ANC's concerns about environmental issues, particularly with regard to protection of the health of nearby residents during site excavation and site remediation. (12/14/16 Tr. at 4-37; Ex. 29.) As noted, the Commission requested that the Applicant and relevant District Agencies respond to the issues raised by Chairman Litsky.
53. The ANC submitted a third and final report on January 30, 2017 in response to additional materials that the Applicant filed after the hearing. The ANC included responses as follows: (Ex. 123.)
- a. Regarding transportation, the ANC stated that the Applicant's preliminary TOPP responds to some of its concerns about an operations plan for the stadium. The ANC concurred with the Applicant's proposal in the preliminary TOPP to assume the cost of traffic control officers ("TCOs") during high attendance stadium events. The ANC also requested that the Applicant pay the cost of parking ticket officers during stadium events. The ANC requested a requirement from the Commission that an agreement between DC United and the Nationals be in place regarding avoiding overlapping events at both stadiums. The ANC also requested a requirement for all letters of intent for all of the off-site parking spaces that the Applicant intends to use. The ANC expressed its continued concern regarding the routing of traffic and that traffic to the stadium will traverse residential streets, so it requested coordination between DDOT and the Applicant to prevent stadium traffic on nearby residential streets. Further, the ANC requested a requirement that it be formally involved in the development of the final TOPP;
  - b. Regarding environmental/health issues, the ANC commended the Applicant on the progress that has been made on these matters, including a monetary contribution for air purifiers. The ANC argued that the Applicant's analysis in its air quality reports should take into account pre-existing conditions, not just site-specific activities. The ANC also argued that the District should do more to limit dust pollutants generated by other sites in Buzzard Point, including DOEE conducting its own air monitoring. The ANC requested that the Applicant's reports include PM2.5 data. The ANC also argued that the four on-site dust monitors may not be sufficient and that they should operate continuously, not just when the activity is occurring on the site. The ANC also requested that the excavated soil be adequately covered to prevent dust from blowing to nearby residents and that "more attention" be paid to rodent control; and
  - c. The ANC stated their objection to digital signage on the exterior of the stadium.

### **Agency Reports and Testimony**

54. By report dated November 18, 2016, OP recommended approval of the PUD subject to conditions and the provision of additional information, such as providing more

information about lighting and a color and materials board. The Applicant agreed to the conditions and addressed the outstanding items with additional information at the public hearing and in two submissions. OP concluded that the PUD is not inconsistent with the Comprehensive Plan, including the FLUM and GPM, and would further the objectives of the Land Use, Economic Development, Transportation, Urban Design, Parks, Recreation and Open Space, Arts and Culture, and Lower Anacostia Waterfront – Near Southwest Area elements. Also, OP concluded that the stadium and ancillary features, such as the realigned 1<sup>st</sup> Street and street-level retail, would align with the goals of the BPVFP. OP evaluated the PUD under the standards set forth in Chapter 24 of the Zoning Regulations and concluded that the Project satisfies the standards. OP concluded that the Project will offer benefits and amenities with respect to urban design, site planning, effective and safe vehicular and pedestrian access, employment and training opportunities, and uses of special value embodied in the Applicant’s Community Benefits Agreement. (Ex. 42; 11/28/16 Tr. at 178-80.)

55. At the public hearing, OP testified in support of the Application, including the Applicant’s requested flexibility from the parking and loading requirements. The testimony noted the improved design that included more ground-floor retail, a realigned private 1<sup>st</sup> Street, and a public park. The testimony also noted areas where more information is required, all of which is described in OP’s final report. (11/28/16 Tr. at 178-80.)
56. By supplemental report dated January 23, 2017, OP responded to the ANC’s planning concerns as follows: (Ex. 121.)
  - a. Regarding the ANC’s concern that the stadium should have a positive impact on the adjacent community, OP concluded that “development of a new soccer stadium at Buzzard Point would serve to accelerate redevelopment, promote economic development in the Buzzard Point and Capitol Riverfront neighborhoods, and enhance economic vitality in the District.” OP also referenced findings in the D.C. Council legislation for the stadium that the development of the stadium will result in improvements and infrastructure investments in the Buzzard Point and Southwest neighborhoods. OP further reiterated that the proposed stadium is consistent with Comprehensive Plan policies and maps;
  - b. The ANC stated its concerns that the BPVFP is still in draft form and that there was not adequate public involvement in its development. OP responded that most of the draft content that was shared with the community continues to be included in the Plan. Further, OP stated that the “vision for the neighborhood and the guiding principles are still relevant to the review of projects in Buzzard Point,” so even as a draft, the BPVFP is relevant to the review of the stadium. OP held numerous meetings with Buzzard Point property owners, the Capitol Riverfront BID, ANC officials, Fort McNair representatives, the National Park Service, local community leaders, and several District government agencies over



the last two years regarding the BPVFP. Stakeholders, including the public, were provided numerous opportunities to provide input through these meetings;

- c. The ANC disagreed with a statement in the BPVFP that said, “Revitalization is consistent with the aspirations with the aspirations (*sic*) and needs of nearby residents and the city as a whole with a focus on roads and public spaces.” OP stated that this statement was taken out of context and was intended as an aspirational and not declarative statement. Further, “OP recognizes that each stakeholder may not fully embrace the vision, but this framework document aims to establish expectations and a shared plan for stakeholders, including property owners and nearby residents.” Accordingly, the BPVFP is intended to provide general guidance on the development of Buzzard Point;
  - d. The ANC expressed its concerns that the BPVFP identifies Half Street as the “transportation spine” of Buzzard Point that would not be able to accommodate traffic. However, OP stated: “The Buzzard Point Streetscape Guidelines designate Half Street as the central place of Buzzard Point and the primary pedestrian link to neighborhoods to the north and south. The Guidelines contemplate Half Street accommodating ground floor retail with pedestrian-scale street furnishings, as well as low impact development streetscape elements to reduce stormwater runoff but does not call it out as a ‘transportation spine’”;
  - e. The ANC expressed concerns about the impacts of the anticipated development of 6000 new housing units in Buzzard Point. However, considerable redevelopment of Buzzard Point has been contemplated and planned for since 2005, including this number of housing units. This number is only an estimate, though. Regarding potential impacts, the CG Overlay was established “to ensure an appropriate mixture of residential and commercial uses and suitable height, bulk, and design of buildings,” so the impacts of future project will be evaluated;
  - f. The ANC stated its concern with and opposition to potential loss of existing housing north of Potomac Avenue to accommodate the stadium or to provide transportation access to Buzzard Point. OP stated that no loss of housing was required for the stadium, and no additional property assemblage, on the District’s part, is anticipated to facilitate the stadium; and
  - g. The ANC stated its desire that the Zoning Commission should include in the order a condition that no digital signage shall be installed on the stadium. OP agreed with this condition.
57. By report dated November 18, 2016, DDOT expressed no objection to the Project, subject to the Applicant agreeing to certain conditions. DDOT cited the numerous transportation studies for the Buzzard Point neighborhood and that infrastructure conditions in the neighborhood are expected to improve. DDOT concurred with the Applicant’s comprehensive transportation review (“CTR”) mode split and trip generation assumptions. DDOT concluded that the CTR appropriately reviewed the stadium’s

impacts and trip distribution methodologies. DDOT agreed that the walking distances to the stadium from the Metrorail stations are reasonable for patrons. DDOT found that the stadium will create periods of concentrated automobile demand but that daily demand generated by the stadium will be minimal. DDOT also found that Metrorail is expected to carry the majority of stadium patrons and has the capacity to accommodate them. DDOT found that the Applicant's proposed TOPP, TDM plan, and other proffers will help alleviate strain on the transportation network. DDOT agreed that the TOPP will evolve over time. Further, DDOT stated that mitigations to be implemented by the District will improve transportation facilities and will help accommodate the stadium. (Ex. 43; 11/28/16 Tr. at 180-84.)

58. At the public hearing, DDOT testified in support of the Application. The testimony described the study and transportation planning of the Buzzard Point neighborhood and the multiple traffic studies concerning the proposed stadium. The DDOT representative also testified that the proposed stadium is expected to have significantly fewer impacts on the transportation network than Nationals Stadium. DDOT's representative further testified that the Applicant's proposed traffic operations and parking plan and transportation demand management plan will mitigate traffic impacts and will address transportation concerns expressed by the ANC and others. DDOT's representative stated that the absence of a streetcar to Buzzard Point will not affect transportation access and demand for the stadium and that DDOT will work with the Applicant to provide sufficient Capital Bikeshare facilities. DDOT's representative described the planned South Capitol Street construction (the Oval) and the measures to ensure existing capacity is maintained and that pedestrians will be able to safely cross the street. (11/28/16 Tr. at 180-84.)
59. The Applicant agreed to all of DDOT's conditions and promised to work with DDOT to finalize the particulars of those conditions. Such conditions to which the Applicant agreed include, but are not limited to, coordination with the Nationals to avoid conflicting events, funding a Capital Bikeshare station, coordination with DDOT in the further development of the TOPP and curbside management, and developing strategies to encourage patrons using Metrorail to use the Navy Yard station. (Ex. 43; 11/28/16 Tr. at 48.)
60. By supplemental report dated January 23, 2017, DDOT responded to the ANC's transportation concerns. The report was attached to the OP report of the same date and included the following responses: (Ex. 121.)
  - a. The ANC argued that a clearly defined transportation plan for Buzzard Point is necessary as a precondition to approving the stadium. However, DDOT stated that Buzzard Point has been the subject of multiple extensive studies and plans. "Several DDOT studies have concurred that the DC United Stadium will be manageable and compatible with the long term build out of the SE/SW area as long as there are not simultaneous weeknight high attendance events at [both the DC United and Nationals stadiums] that overlap with the PM peak travel period." Further, DDOT's M Street SE/SW Transportation Study was completed in

response to the community's desire to understand the potential impacts of entertainment and event uses in the area. Supplemental stadium-specific studies have subsequently been performed with recommendations for infrastructure improvements that will be implemented;

- b. The ANC argued that the stadium's operations plans are not defined but must be before the stadium may be approved. DDOT understands the importance of developing a successful transportation operations and parking plan, having done so for the Convention Center, Verizon Center, and Nationals Stadium. It is committed to doing so for the DC United Stadium too. Importantly, however, "TOPPs respond to on-the-ground conditions and are therefore assembled in preparation for seasonal operations in order to reflect the most current conditions of roadways and other transportation elements. This is doubly important in a dynamic area such as Buzzard Point where ... [projects] are expected to dramatically change both physical transportation infrastructure and multi-modal transportation operations in the vicinity." Thus, DDOT concurs with the Applicant that it is premature to fully develop a TOPP at this time, but DDOT requested several preliminary TOPP commitments to which the Applicant agreed. Further, DDOT and the Applicant will coordinate on the development of the final TOPP, which DDOT must approve, and dates for the components;
- c. The ANC argued that additional transit service to Buzzard Point is necessary for stadium operations. DDOT agrees that enhanced transit service is important to transit operations but that it will be part of the final TOPP. Further, DDOT is committed to adding bus service; however, the factors required to expand service are presently unknown but will be explored in the future. Despite the ANC's concerns that bus service cannot be expanded, "DDOT regularly coordinates with WMATA to enhance Metrobus routes to respond to changes in demand... and has held preliminary discussions with WMATA about service enhancements to the Metrobus 74 line and the appropriate timelines for these discussions";
- d. The ANC argued that the DDOT studies for Buzzard Point and the stadium are predicated on streetcar service, which is no longer planned. However, DDOT's studies always assumed that the great majority of the transit demand for the stadium would be met by Metrorail. Streetcar service, if any, would be a comparatively small supplement. Further, "DDOT finds that in the absence of a streetcar, the assumed 40% transit mode split... is achievable...";
- e. The ANC argued that there will be insufficient pedestrian and bicyclist access to the stadium. However, the District will install high-quality pedestrian facilities and two cycle tracks surrounding the stadium site, and the cycle tracks will be located to avoid conflicts. Further, DDOT expects that traffic control officers will be located around the stadium during events to effectively manage pedestrians and other transportation modes;

- f. The ANC argued that transportation improvements to service the stadium and Buzzard Point may remove existing housing north of Potomac Avenue. However, DDOT stated, “There are no current transportation improvements related to the DC United Stadium or planned transportation projects in the vicinity that are anticipated to remove existing housing”;
  - g. The ANC expressed concern that broader transportation access and circulations in Buzzard Point are not addressed in the CTR or DDOT’s initial report. However, DDOT’s M Street SE/SW Transportation Study recommended infrastructure changes to improve traffic conditions in Buzzard Point, provide better connections to the regional network, and support planned development in Buzzard Point. These recommendations will be implemented as Buzzard Point develops, and DDOT is committed to working with ANC 6D and the community to ensure their success. Further, DDOT will monitor all Buzzard Point projects to ensure that they are coordinated. DDOT will require traffic control plans for construction projects to mitigate impacts on the neighborhoods surrounding Buzzard Point, and any project in Buzzard Point seeking discretionary zoning relief will be subject to more detailed study of traffic impacts and possibly to conditions that will minimize the project’s traffic impacts; and
  - h. The ANC expressed concerns about Half Street becoming the “transportation spine” of Buzzard Point that will adversely affect residential uses north of the stadium. However, that condition is not part of DDOT’s plans. “DDOT does not envision creating a new vehicular traffic spine on Half Street between M Street and Buzzard Point. No changes to Half Street between M Street and P Street, including direction of travel, are planned as part of the stadium project or buildout of Buzzard Point.”
61. Through a second supplemental report dated January 30, 2017, DDOT indicated that it had reviewed the preliminary TOPP and found it to be a strong basis for the TOPP to be developed prior to the opening of the stadium and that the preliminary TOPP covered the required subject areas DDOT also noted that its approval of the final TOPP is required. (Ex. 122.)
62. By report dated November 18, 2016, DOEE recommended approval of the Project, with conditions. DOEE recommended that the Applicant explore on-site renewable energy generation, additional methods of storm water retention, and impacts of climate change. DOEE commended the improved design for the plaza, public park, and pocket parks. DOEE acknowledged the development of the Applicant’s Dust and Odor Control Plan. (Ex. 40; 11/28/16 Tr. at 185-87.)
63. At the public hearing, DOEE testified in support of the Application. DOEE’s representative reiterated the points in DOEE’s final report. In addition, DOEE’s representative testified that DOEE is working closely with the Applicant to remediate the site pursuant to a plan that DOEE approved. DOEE’s representative also testified that air quality inspections of the concrete plant close to the stadium site are conducted

regularly. DOEE's representative further testified that the stadium's design satisfies the heightened stormwater management requirements for the location and that the proposed public park and trees are positive additions to the design. (11/28/16 Tr. at 185-87.)

64. By supplemental report dated January 23, 2017, DOEE responded to the ANC's environmental concerns as follows: (Ex. 121.)
- a. The ANC argued that there has been little effort for preparing community residents with the impact of excavating and remediating the stadium site may have on the residents' health. However, DOEE indicated that it has worked closely with the Applicant to develop, review, and approve a Voluntary Cleanup Program. Also, DOEE directed the Applicant to submit a Cleanup Action Plan that includes a health and safety plan for workers, a Human Health Risk Assessment, a Dust and Odor Control Plan, and a Soil Erosion and Sediment Control Plan. These various plans will ensure that the stadium site is cleaned in a manner that will protect the health of nearby residents. DOEE and other District agencies met regularly with neighbors and community representatives regarding these plans, and reports on the cleanup activities are publicly available. DOEE has also readily provided information in response to inquiries; (Ex. 118D.)
  - b. The ANC argued that DOEE should have provided guidance to the Commission regarding the environmental conditions at the stadium site. However, "DOEE reviews [PUD] applications for environmental impacts and to ensure they are consistent with the Comprehensive Plan," and DOEE uses the PUD process to identify opportunities for increasing environmental and sustainable design benefits. Aside from the PUD process, the environmental regulatory review process ensures that all development projects in the District satisfy the requirements for hazardous material remediation and stormwater management. In this case, the Applicant appropriately engaged in and followed the regulatory review process; and
  - c. The ANC argued that DOEE should have prepared a report that assesses how the Applicant will operate in coordination with the District and the community to safely clean up the stadium site and achieve greater economic development. However, such report is not necessary because all development projects are required to comply with the applicable regulatory requirements for contaminated sites, and that includes working with the District and the community. The Applicant followed these protocols in developing the Voluntary Cleanup Program for the stadium site. Other development sites in Buzzard Points will be evaluated on a site-specific basis.
65. DOH filed a report on January 23, 2017 in response to the general concerns about the health of nearby residents with respect to the development of the stadium expressed during the public hearing. DOH undertook the Buzzard Point Community Health and Safety Study (CHSS) in response to nearby residents' concerns about health risks associated with the redevelopment of Buzzard Point. The CHASS made five

recommendations. DOH is committed to health surveillance and monitoring of Buzzard Point and promoting community collaborations. Also, DOH has been in frequent communication with ANC 6D regarding the CHASS. (Ex. 121.)

66. The Deputy Mayor for Planning and Economic Development testified in support on behalf of the Mayor. The Deputy Mayor indicated that the stadium will allow the removal and clean-up of industrial land, promote economic development and new jobs, and provide benefits to the community and District. He also stated that DOEE has increased its enforcement against other properties in the area that generate dust and that the District will construct new infrastructure, including roadway improvements, around the stadium

### **Letters and Testimony in Support**

67. Witnesses in support testified that the stadium will bring new jobs to the neighborhood and District and that it will have overall positive impacts including economic improvements from the stadium's catalytic effect of neighborhood revitalization. (11/28/16 Tr. at 7-11; 12/14/16 Tr. at 38-39, 103-110.)
68. The Commission received many letters in support of the Application. Support letters were from nearby residents, neighboring property owners, and members of the D.C. Council. In particular, Pepco, a neighboring property owner, and the Capital Riverfront Business Improvement District wrote in support of the Application. Also, Councilmembers David Grosso, Jack Evans, and Charles Allen wrote in support, noting the high-quality design and site plan, the catalytic effect of the stadium, and community contributions of DC United. Many nearby residents also submitted letters in support of the Application, citing the importance of the stadium to the neighborhood and the high-quality design. (Ex. 36, 41, 51-72, 74-77, 80, 87, 98, 99.)

### **Testimony and Letters in Opposition**

69. Testimony in opposition focused almost exclusively on transportation and environmental issues. In addition to those issues, testimony in opposition raised concerns over displacement of residents and gentrification; environmental justice and civil rights; environmental impact study and compliance with environmental law; impacts on community services; and rodent control. (12/14/16 Tr. at 58, 68-69, 87-88, 97.)
70. With respect to transportation issues, testimony in opposition was presented by Marjorie Lightman, ANC 6D Commissioner, and two neighborhood residents. Their testimony asserted that neither a comprehensive transportation plan for Buzzard Point (prepared by the District) nor a detailed operations plan for the stadium existed. In addition, opponents testified about concerns over traffic, parking, and transit congestion. Additional testimony expressed concern about the potential problems when events are held at both the Nationals Park and the proposed stadium at overlapping times. (12/14/16 Tr. at 53-54, 56-59, 60-63.)

71. With respect to environment and public health issues, testimony in opposition was presented by Kari Fulton of Empower D.C.; Michael Johnson of Irons and Sevens Fire; Elgloria Harrison of the University of the District of Columbia; Rhonda Hamilton, ANC Commissioner for Single Member District (“SMD”) 6D06; Chris Otten of D.C. for Reasonable Development; Mike Ewall of Energy Justice Institute; Dr. Sacoby Wilson of the University of Maryland; India Fuller of the Near Buzzard Point Resident Advisory Committee; and several District residents testifying in their individual capacity. The testimony concerned the vulnerable residential population closest to the Property and expressed concern whether care is being taken to safeguard residents’ respiratory health since the Property contains contaminants. In particular, testimony expressed concern about ensuring the safety of nearby residents during site remediation, site excavation, and construction of the stadium, particularly with respect to fugitive dust control and rodent control.
72. Testimony was provided that advocated for the adoption of the best practices from CHASS and the New Jersey Institute of Technology Report (“NJITR”) and a plan for site remediation and exposure limitation, including resident health monitoring and enforcement against other dust sources. In addition, testimony advocated for assessing the cumulative impacts of the stadium and for a baseline assessment of the health conditions of nearby residents, acknowledging other contributing/polluting facilities in the neighborhood. Additional testimony contended that the stadium is not consistent with the Comprehensive Plan’s policies in the Environmental Protection Element concerning environmental hazards since impacts of such hazards would not be assessed. (11/28/16 Tr. at 92-98; 12/14/16 Tr. at 51-53, 63-102.)
73. The Commission received several letters in opposition to the Application. The letters stated concerns with adequate transportation infrastructure in Buzzard Point, traffic congestion on 4<sup>th</sup> Street, S.W., the absence of a transportation plan for Buzzard Point, and displacement of nearby residents resulting from the stadium. (Ex. 73, 78.)

### **Testimony Neither in Support or Opposition**

74. Two persons testified neither in support nor opposition to the Application. A representative of Casey Trees testified to recommend that the Commission adopt, and the Applicant implement, additional measures to increase tree canopy and coverage on the Property. Further, a representative of the Southwest Community Benefits Coordinating Council testified in support of the stadium plan and its benefits, although she also testified regarding the need for adequate transportation planning and facilities as well as adequate health protections for nearby residents. (12/14/16 Tr. at 111-19.)

### **Contested Issues**

75. The following are the Commission’s response to the issues and concerns raised by ANC 6D in its reports and testimony, as well as those issues and concerns raised by the members of the public during the course of this proceeding.

## Transportation

### *Vehicular, bicycle, and pedestrian routing and access, and use of local streets.*

76. The ANC and other neighborhood residents expressed concerns about emergency vehicle access to and from the Buzzard Point neighborhood; increased congestion on 4<sup>th</sup> Street, S.W. and the necessity of a plan to alleviate it; the use of Half Street, S.W. as a primary traffic route; and the use of residential streets by stadium patrons. For the reasons stated in Findings of Fact 77 through 81, the Commission finds that the Applicant and DDOT have sufficiently studied these issues and have established plans to adequately mitigate them and to provide sufficient services and accommodations where necessary.
77. Based upon the conclusions reached by Applicant's studies regarding traffic impacts and its plans for mitigating such impacts, the Commission finds that traffic congestion in the neighborhood will be acceptable because of the stadium. The Commission is persuaded by the Applicant's and DDOT's testimony that traffic can be adequately routed so that it will not create substantially more congestion on nearby residential streets and that traffic operations during events will be controlled differently because of the TOPP. The Commission acknowledges the ANC's concerns about additional congestion blocking 4<sup>th</sup> Street, S.W. and other residential streets thereby creating a safety hazard, but the Commission believes that the Applicant has addressed this concern. The Commission finds that that the Applicant has sufficiently planned for congestion and will adopt adequate measures to limit congestion and control traffic away from residential streets during stadium events.
78. The Applicant's traffic expert submitted a detailed comprehensive transportation review that concluded that the Project would not have a detrimental impact on the surrounding transportation network. In particular, the CTR found that the stadium's design would minimize any adverse impact. The CTR found that the stadium's design takes advantage of existing surrounding transportation facilities, is oriented to accommodate anticipated circulation routes, has on-site pedestrian facilities scaled to match projections of future pedestrian approaches and departure routes, and has ample bicycle parking near major existing and planned bicycle routes. (Ex. 37A, 97A.)
79. The transportation network in and out of Buzzard Point is sufficient to accommodate the stadium, and residential streets will not be primary routes. Fourth Street, S.W. is not expected to be the primary route for driving patrons to access the stadium, and there will be other primary routes and modes to the stadium. The Applicant's studies and other studies of Buzzard Point identify South Capitol Street and the planned Oval as the primary route to and from Buzzard Point, based on where most of the patrons are driving from. The TOPP will include measures to route traffic away from residential streets so that Half, 1<sup>st</sup>, 2<sup>nd</sup>, and 4<sup>th</sup> Streets, S.W. are not primary routes. The Applicant will coordinate with DDOT to prevent routing of stadium traffic through nearby residential neighborhoods, and it will implement measures – such as paying for traffic control officers, wayfinding, and information dissemination – as part of its TOPP to avoid unacceptable congestion on nearby residential streets, particularly 4<sup>th</sup> Street, S.W. This



plan will allow for emergency vehicles to be able to access areas of the southwest neighborhood south of M Street without great concern. In addition, the Applicant will work with a water taxi company to provide service to Buzzard Point that will provide stadium patrons with another transportation option. (Ex. 97A, 118A, 118B; 12/14/16 Tr. at 158-59; 2/16/17 Tr. at 34-39.)

80. Most of the vehicular traffic accessing the stadium is expected via the future South Capitol Street Oval, which will mean using Half Street, S.W. primarily south of Potomac Avenue, and the Applicant's studies accounted for that expectation. The Applicant's studies did not demonstrate preferential routing of vehicular traffic using Half Street north of Potomac Avenue, so use of Half Street in this manner would not impact the neighborhoods to the north. Further, because parking lots will be dispersed, much of the stadium patron traffic will not drive to Buzzard Point in any event. Thus, Half Street will be an important vehicular connection to Buzzard Point but not one that will cause adverse traffic conditions in the nearby residential neighborhoods north of Potomac Avenue. (Ex. 97A; 11/28/16 Tr. at 167-69.)
81. The traffic congestion at intersections that were studied in the CTR are not anticipated to get worse with the opening of the stadium with the identified mitigation measures, including the TDM plan and the operational strategies outlined in the preliminary TOPP. Event-based traffic operates differently than average day traffic in order to mitigate additional congestion at intersections. Such event-based operations will be part of the TOPP and will include measures such as manual control of intersections to direct movements as efficiently as possible. (Ex. 37A, 97A; 11/28/16 Tr. at 217.)

*Adequate bicycle facilities, access, and routing.*

82. The ANC argued that the Project's support for bicycles, including the valet and other facilities, is insufficient. The ANC also argued that the Project will not include adequate bicycle access and routing. The Commission finds that the stadium will include adequate bicycle infrastructure and facilities to accommodate anticipated demand from stadium patrons. The Commission credits the testimony of the Applicant and DDOT that sufficient bicycle parking, Capital Bikeshare, and bicycle routes will exist. Bicycle facilities, including cycle tracks and parking, will be sufficient to accommodate the stadium's staff and patrons. The bicycle facilities have been carefully planned to accommodate different cyclists. The Project will provide at least 447 bike parking spaces in and around the stadium. Ample bike parking will be provided where it is most likely to be used, namely racks at the northeast side of the stadium and along 2<sup>nd</sup> Street, but valet will be offered for different cyclists who want their bicycles more protected. Bikeshare will be accommodated through a new station and a corral that the Applicant will fund. Bicyclists to the stadium will have access to a network of multi-use trails, protected bicycle facilities, and streets that facilitate cycling. Additional bicycle tracks and trails will be installed in the future as parts of different projects. All existing and planned routes and facilities will accommodate bicyclists arriving and departing the stadium. (Ex. 97A; 12/14/16 Tr. at 160-62.)

*Accommodating transportation to/from the stadium before and during construction of the South Capitol Street improvements (the Oval).*

83. The ANC stated its concern about adequate planning and accommodations for automobiles and pedestrians before and during the South Capitol Street at Potomac Avenue, S.W. (the South Capital Oval) improvements. The ANC argued that the Applicant and DDOT did not adequately plan for these conditions. The Commission is not persuaded by the ANC that the plans are insufficient, and it finds DDOT and the Applicant have provided reasonable plans and a process for accommodating such changes and conditions. The Applicant devised a plan for accommodating stadium patrons before, during, and after construction of the planned improvements on South Capitol Street. The Applicant's CTR analyzed conditions in the short term (without Oval) and long term (with Oval), and the Commission is persuaded by DDOT's testimony that traffic conditions generally will improve with the Oval. Circulation diagrams in the record show how pedestrians and automobiles will arrive and depart the stadium via South Capitol Street before and after the construction of the Oval. Furthermore, during construction of the Oval, a DDOT-approved traffic control plan is required, which must include the ability to accommodate patrons to and from the stadium. (Ex. 37A, 118A; 12/14/16 Tr. at 164-65; 2/16/17 Tr. at 34.)

*Off-site parking sufficiency and usability, and binding agreements for off-site parking.*

84. The ANC expressed concern that the off-site parking spaces on which the Applicant will rely will not be available and committed to when the stadium opens, that the spaces will not be secured for long-term, and that the spaces will be lost to development. The ANC also expressed concern that the spaces would be too far away to be used by stadium patrons. The Commission finds that the location and number of off-site automobile parking spaces will adequately accommodate stadium patrons, staff, players, and media. The Commission further finds that the Applicant has provided evidence that the parking spaces will be available and that for the long-term operation of the stadium, an adequate number parking will be available to satisfy expected demand. Furthermore, the Commission finds that the off-site spaces are within a distance close enough to be used by stadium patrons. The Commission believes that the Applicant's parking plan has enough certainty to conclude that there will not be unacceptable parking conditions in the neighborhood.

85. The Applicant's evidence showed that the supply of off-street parking in off-site lots will be sufficient to accommodate the expected stadium patrons' demand for parking: the Applicant will secure approximately 3,750 off-site spaces, which is commensurate with anticipated demand. The neighborhood has an overall availability of more than 7,000 spaces, so as neighborhood conditions change, the Applicant will be able to adjust off-site parking space availability. The Applicant produced letters of intent from many of the parking lot operators for more than 1,800 spaces. Most importantly, prior to the issuance of a certificate of occupancy, the Applicant must produce evidence of commitments for at least 3,750 off-site parking spaces. (Ex. 97A, 97B; 11/28/16 Tr. at 41; 2/16/17 Tr. at 30-31.)

86. In addition, the locations of the off-site parking lots will be within a reasonable distance to the stadium such so that they will be used by patrons. Based on experience at other stadiums (comparable in other cities) and Applicant's transportation expert's testimony, the off-site parking lots will be within a reasonable and feasible walking distance of the stadium for patrons. The average walking time from a parking lot to the stadium will be approximately 7.5 minutes, but patrons are willing to walk further distances to sporting events, in general, so further lots will be used. Data from similarly situated stadiums in other cities, such as Portland, demonstrate the viability of this situation. (Ex. 97A, 97B; 11/28/16 Tr. at 41.)
87. Off-site parking for players, staff, and the media will also be provided. Players will be shuttled to and from games from their practice facility, where they will park their cars. On game days, staff will park in one of the off-site lots with which the Applicant has an agreement but is less desirable for patrons (likely further away). On non-game days, staff will be given monthly passes to park at one of the nearby public parking lots. For media, parking will be reserved in one of the closer lots with which the Applicant has an agreement. (Ex. 97A.)

*Stadium operations plan.*

88. The ANC argued that the Applicant should develop and provide a complete transportation and operations plan for the stadium as a precursor to the Commission approving the Application since, the ANC argued, the impacts of the stadium cannot otherwise be evaluated. In addition, the ANC requested that the Applicant pay the cost of parking enforcement during stadium events. The Commission finds the TOPP is sufficient for it to understand how various populations (drivers, bicyclists, persons with disabilities, for-hire vehicles, etc.) will be accommodated and to assess the stadium's impact. The Commission finds that the Applicant's preliminary TOPP provides more detail than is typical for such plans at this stage, so it provides the Commission and the community a clear basis on which to make a determination. The Commission recognizes the ANC's desire for a more detailed TOPP and understands the importance of as much detail as possible about the stadium's operations, but it agrees with the Applicant and DDOT that a completely developed TOPP is not necessary or feasible at this time. In addition, the Commission agrees with the Applicant and DDOT that the TOPP will need to evolve through the stadium's life and will do so with community and ANC consultation. Finally, the Commission believes that the District will have a strong incentive to enforce parking restrictions during stadium events such that it is not necessary for the Applicant to pay for parking enforcement officers. (2/16/17 Tr. at 23.)
89. The Applicant prepared the preliminary TOPP in response to the ANC's concerns. The Commission agrees with DDOT that the preliminary TOPP is reasonable and provides a strong basis for the TOPP to be developed prior to the opening of the stadium and that the preliminary TOPP covered the required subject areas. (Ex. 122.) The Applicant's TOPP is based on Federal Highway Administration ("FHWA") standards, the TOPP for Nationals Stadium, and requests from DDOT. The preliminary TOPP includes pedestrian, bicycle, and transit measures, such as wayfinding and incentives; travel

scenarios; parking measures, such as wayfinding and inventories; neighborhood protections, such as barriers and parking enforcement; curbside management for disabled transit and for-hire vehicles; traffic operations, such as signal timing, traffic control officers, and signage; and an operations summary. The Commission credits the Applicant's and DDOT's testimony that the strategies may be developed beforehand, but the operations will be subject to ongoing change. (Ex. 97A, 118A, 122; 12/14/16 Tr. at 156-57.)

90. Pursuant to Condition C.8 of this Order and prior to the issuance of a certificate of occupancy, the Applicant must provide evidence to the Zoning Administrator, that it has, in consultation with DDOT and other relevant district agencies, the ANC, and other stakeholders, adopted a final TOPP substantially similar to the preliminary TOPP included in the Record. (Ex. 118A.) This timeline is significantly earlier than FHWA guidelines and sufficiently early that it will allow time for it to be reviewed by all stakeholders and optimized. Proof of the completion of a final TOPP must be provided to the Zoning Administrator prior to the issuance of a certificate of occupancy for the Project. Once the stadium is open, the TOPP will be updated in coordination with DDOT, the ANC, and other relevant District agencies and stakeholders as conditions at and around the stadium change. Updates will occur mid-season after the first several games and then will occur annually thereafter, or sooner if necessary. Drafting a final TOPP any sooner than the Applicant has proposed is impractical because conditions are likely to change. (Ex. 97A, 118A; 12/14/16 Tr. at 156-57.) These requirements have been made conditions of this Order.

*Transit adequacy and distance, including accommodations for persons with disabilities.*

91. The ANC and others argued that the transit system, particularly Metrorail, cannot accommodate the demand from the stadium's patrons. The ANC also argued that the Metrorail station (Navy Yard), with a walking distance of 0.7 mile, is so far from the stadium site that patrons will be deterred from using it and suggested that a shuttle is necessary. The Commission concludes otherwise.
92. The CTR and the Applicant's transportation expert concluded that Metrorail will be the dominant mode of transit access to the stadium. The estimated transit ridership for a "sell-out" crowd at the stadium can be accommodated only on Metrorail since it has far greater capacity than other modes, such as buses. Indeed, Metrorail does have the capacity to accommodate a "sell-out" crowd of transit riders traveling to the stadium. (Ex. 37A; 11/28/16 Tr. at 44.)
93. Metrorail will be within a reasonable walking distance of the stadium, and patrons will be willing to walk it. Walking from the Metrorail station to the stadium will be the only viable means for most people because of limited bus capacity; however, as noted by DDOT, although the 0.7-mile walking distance is relatively long, it is not unreasonable for the vast majority of patrons, and is comparable in distance to the majority of off-site parking locations. (Ex. 121.) The Applicant's transportation expert reviewed other cities with similar "entertainment districts" with two or more large event spaces, such as

Seattle. In that comparable situation, patrons were able and willing to walk approximately 0.6 mile to the stadium. This demonstrates that the distance in this case between the Navy Yard Metrorail station and the stadium entrance is sufficiently close for patrons to walk. Therefore, a shuttle service is unnecessary.

94. In any event, a shuttle service would be infeasible given the anticipated volume of Metrorail riders walking from the Metrorail station to the stadium. Further, a shuttle is not practical for the movement of most patrons for a successful operations plan. (Ex. 97A, 118A; 11/28/16 Tr. at 44-46, 194-95.)
95. Access to the stadium for persons with disabilities from parking lots and the Metrorail station are included in the preliminary TOPP. Individuals with disabilities will have the use of a designated parking lot and a shuttle for their use that will run between the Navy Yard and Anacostia Metrorail stations, the designated parking lot, and the stadium. In addition, the curbside management component of the TOPP will meet accessibility standards. (Ex. 97A, 118A.)

*Contemporaneous scheduling of events at DC United Stadium and Nationals Stadium.*

96. The ANC and other opponents argued that the transportation infrastructure cannot accommodate contemporaneous events at both the DC United Stadium and Nationals Stadium, and they requested that such contemporaneous events be prohibited. Based on the testimony and evidence in the record, the Commission finds that simultaneous events at the DC United Stadium and Nationals Stadium are for the most part avoidable but can be accommodated if necessary. The Applicant committed to working with DMPED and the Nationals to schedule events at both stadiums, to the greatest extent possible, that do not conflict. In the rare instance that games or events conflict, then the Applicant will work with DMPED, DDOT, the Nationals, and the ANC to develop an operations plan to minimize the impacts on the neighborhood and city services, which is possible based on empirical evidence from other cities. Regular season game schedules for both professional baseball and soccer are prepared far enough in advance that it is feasible to avoid conflicting game schedules at both stadiums. The only real potential for conflict is post-season games (playoffs). However, based on the past three season schedules of the two teams, it is unlikely that games will ever conflict, even in the post-season. Thus, the potential for conflicting schedules is nominal and can be accommodated in the rare instance that it occurs. (Ex. 97, 97C, 118.)

*Curbside management.*

97. The ANC argued that the Project should include a specific plan now for curbside management for loading, pick-ups, and drop-off, particularly for for-hire vehicles. The Commission finds that the Applicant provided sufficient detail about curbside management in the preliminary TOPP and agrees with the Applicant that curbside loading, drop-off, pick-up can be effectively managed with the implementation of the final TOPP. Therefore, the Commission finds that a specific plan at this point is unnecessary. The CTR includes a study of available curbside inventory, routing

diagrams, and a general concept of how the curbside will be used. The CTR found that the loading facilities under the seating bowl will accommodate the loading demand. Most loading will occur on non-game and non-event days, and all truck maneuvers in and out of loading facilities will occur on private space below the stadium seating bowl, so it will have little effect on curbside management. Further, the stadium will include sufficient curbside space to accommodate patron pick-up and drop-off, including from taxis and other for-hire car services. There will be sufficient curbside space for the stadium's patron's use, including accommodating the expected demand from taxis and other for-hire car services. A complete plan for curbside management will be included in the final TOPP as conditions and transportation modes are better known. (Ex. 19A, 37A, 97A, 118A; 11/28/16 Tr. at 47; 12/14/16 Tr. at 153, 159-60.)

*Transportation studies and plans for Buzzard Point and evaluation of the stadium in a larger context.*

98. The ANC and others argued that the stadium's transportation impacts must be evaluated in the larger context of the redevelopment plans for all of Buzzard Point rather than on its own. The ANC also argued that no comprehensive Buzzard Point transportation study and plan has been prepared but is necessary since, the ANC argued, the Applicant's and DDOT's cited studies are inadequate. The Commission finds that the District and the Applicant have undertaken a sufficient amount of transportation study and planning for the Buzzard Point neighborhood to assess the impacts of the stadium. In making this finding, the Commission credits the testimony of the Applicant and DDOT, particularly with regard to DDOT's continued evaluation of future projects in Buzzard Point. Such existing studies and plans provide a background and framework on which the key findings of the CTR may be reasonably based and on which the TOPP may be reasonably developed. Multiple transportation studies for the Buzzard Point area, including the concept of a stadium, have been conducted by different parties. In addition to the Applicant's CTR and DC United Environmental Mitigation Study (Transportation section), DDOT has conducted at least three studies for the larger Buzzard Point area, including the Anacostia Waterfront Framework Plan, Southeast/Southwest Study, and the Buzzard Point Framework Plan Transportation Study. These studies consider the various travel modes, demand, general travel patterns, and other factors affecting the transportation network to and from Buzzard Point, such that the impacts of the stadium can be adequately understood. (Ex. 19A, 19E, 19F, 37A, 43, 97A; 11/28/16 Tr. at 180-81, 204-05; 12/14/16 Tr. at 151-54.)

*Faulty assumptions in transportation studies.*

99. The ANC argued that the DDOT studies on which the CTR and other transportation analyses were based included faulty assumptions about the necessity of a streetcar, Metrobus line, and/or Circulator line serving Buzzard Point. The ANC argued that none of these transit options are likely in the future, so, the ANC argued, the studies of the stadium's transportation impacts are not valid. The Commission recognizes the ANC's concern, but is not persuaded and finds that the Applicant's and DDOT's studies are valid. The Commission credits DDOT's testimony that enhanced transit service is

important but that it is a consideration that will be explored in the future. Also, the Applicant provided sufficient explanation why the CTR is not predicated on such transit extensions. While some of the Buzzard Point studies cited a streetcar, Metrobus, or Circulator line extension as components of a transportation plan for the stadium, that these modes are not necessary for a viable plan. The CTR and DC United Environmental Mitigation Study (“EMS”) state that the primary means of transit use for stadium access is Metrorail and walking from the station. The streetcar, bus, and Circulator were considered to be secondary means, at best, due to their much lower capacity. None of the analysis of transit capacity and pedestrian accommodations contained in the EMS assumed that streetcar or bus service was available on game days, in order to demonstrate that sufficient capacity existed within the Metrorail and pedestrian system to accommodate the expected demand generated by the stadium. Furthermore, a streetcar or bus is not a prerequisite to the successful transportation operations plan for the stadium. (Ex. 19E, 19F, 37A; 11/28/16 Tr. at 183, 207-08; 12/14/16 Tr. at 155-56.)

#### Environment/Health Impacts on Nearby Residents

*Preparation of nearby residents for potential harmful effects from removal of contaminants from stadium site and during construction of the stadium.*

100. The ANC and other opponents argued that the excavation and removal of contaminants from the stadium site in order to clean it has the potential to harm residents without adequately informing them about this risk. The ANC and others also argued that DOEE should do more to explain the health risks of the site clean-up and stadium construction as well as the process for protecting nearby residents’ health. The ANC further argued that DOEE should inform the Commission how the Applicant will work with the District to clean-up the stadium site and achieve economic development.
101. Commission finds that the Applicant has followed all applicable regulations and will implement processes to ensure that site clean-up will be executed in a manner to protect the health of nearby residents. Further, the Commission finds that the Applicant and DOEE adequately prepared nearby residents for the potential harmful effects of cleaning the stadium site and informed the Commission and the community how the clean-up and remediation process will work. In coordination with DOEE, the Applicant prepared plans, as memorialized in multiple documents, to clean the site of contaminants and to protect the health of nearby residents during excavation and remediation of the site and during construction of the stadium. Furthermore, the Commission credits DOEE’s analysis that the environmental regulatory review process is the proper process for safe site excavation and remediation; DOEE coordinated with the Applicant through this regulatory process, which the Applicant has complied with. (Ex. 120A, 121; 12/14/16 Tr. at 123-29; 2/16/17 Tr. at 8-10.)
102. As part of the plans that the Applicant prepared, the Applicant’s environmental consultants prepared a Human Health Risk Assessment (“HHRA”) that was reviewed and approved by DOEE. The HHRA evaluated the site conditions and the risks from contaminants to various people at or near the Property. The HHRA identified what must

be cleaned on the Property and what measures need to be taken to best protect the health of nearby residents during site remediation and clean-up of the soil.

103. DOEE met regularly with neighbors and community representatives regarding the site remediation plans and health protection measures being developed with the Applicant.
104. The Applicant presented the HHRA and other plans to the community at several public meetings, and the information was consistent throughout. Following the public hearing, the Applicant also met with representatives of the ANC regarding the Applicant's plans for environmental protection and agreed to provide supplemental information, which it did in its post-hearing submission. (Ex. 118, 118D, 118E, 120A; 12/14/16 Tr. at 137-38.)

*Stadium site clean-up and remediation procedures to protect nearby resident health.*

105. The ANC and other opponents argued that the stadium site should be cleaned-up and remediated in a manner that will limit the exposure of nearby residents to contaminants on the site. The Commission agrees and finds that the Applicant's clean-up plan will adequately protect nearby residents from harmful exposure. The Applicant will implement a Voluntary Clean-up Action Plan ("VCAP") prepared by the District. The VCAP will be implemented prior to construction of the stadium to remediate the Property of the identified harmful chemicals and contaminants. The stadium site will pose much less of a health risk to nearby residents after it is cleaned than in its current condition. The VCAP was reviewed and approved by DOEE and is consistent with industry standards for such site remediation. (Ex. 118D; 12/14/16 Tr. at 133, 140.) As a condition of this Order, the Applicant must provide the Zoning Administrator with a Certificate of Completion of VCAP for the Property issued by DOEE. If the agency has not issued a certificate by the date that the Project is eligible to receive a certificate of occupancy, the Applicant must demonstrate to the Zoning Administrator that it has completed an approved Action Plan and indicated the date that it requested a certification of completion.

*Dust control and monitoring and protection of nearby residents from fugitive dust.*

106. The ANC and other opponents argued that dust control and monitoring should be more expansive and should account for more conditions than proposed, pursuant to Finding of Fact No. 52(b) above. The Commission finds that the Applicant's plans for dust control and monitoring will sufficiently monitor and limit fugitive dust to protect the health of nearby residents. The Applicant will implement a dust and odor control plan ("DOCP"), approved by DOEE, to adequately protect the health of nearby residents during the excavation and remediation of the soil on the Property, particularly with respect to respiratory health. The DOCP will ensure that during site excavation and remediation, dangerous levels of contaminated particulates are controlled and do not drift in the air to nearby residents. The DOCP will include such measures as real-time dust monitors placed on the perimeter of Property to ensure that excessive dust is not leaving the Property during activity on the site, including excavation and stockpiling of soil. The



dust monitors will alert on-site workers if acceptable levels are exceeded, and the on-site workers quickly will make adjustments to activity or site conditions to reduce dust levels. The Applicant also will thoroughly cover the stockpiles of soil prior to removal to control wind-blown dust. In addition, the Applicant will monitor and mitigate dust leaving the site from trucks. The Applicant will submit regular dust monitoring reports to DOEE. The measures that will be implemented as part of the DOCP will meet industry standards for dust control and elimination. (Ex. 115, 118D, 121; 12/14/16 Tr. at 129-35, 138-39, 148-49.)

107. Regarding the ANC's concern that the dust monitoring should account for pre-existing conditions in the neighborhood, the Commission finds that the Applicant's dust monitoring and control plans will address the dust issues that pertain to the stadium site. The Commission agrees with the testimony and analysis of the Applicant and DOEE that the DOCP will adequately monitor and prevent dust generated on the stadium site, which is the extent of what the Applicant can do since the Applicant cannot control dust generation from other sites. (2/16/17 Tr. at 7-8.)
108. Regarding the ANC's request for weekly PM<sub>2.5</sub> air monitoring reports, DOEE stated that it will install an additional air monitor in the residential neighborhood near the stadium site. This monitor will provide that data as requested, so the Commission finds that the issue has been adequately resolved. (2/16/17 Tr. at 12-15.)
109. Regarding the ANC's argument that only four on-site monitors is insufficient, DOEE committed to install an air monitor in the nearby residential neighborhood, which will result in sufficient monitoring for the site and the neighborhood to protect the public's health. Accordingly, the Commission finds that this concern has been adequately addressed. (2/16/17 Tr. at 15-17.)
110. Regarding the ANC's request that the dust and soil on the stadium site be covered daily after work is complete, the Commission finds that the Applicant has a strategy to prevent excessive dust leaving the site and to react if dust is excessive. This strategy will sufficiently limit dust generation, including after work hours, so the Commission finds that Applicant has adequately addressed this issue. (2/16/17 Tr. at 17-18.)
111. The Applicant committed to providing the required air filters for nearby residents at a minimum cost of \$50,000. Prior to the issuance of a building permit for the stadium, the funds must be provided to BreatheDC, which will procure and distribute the air filters. (Ex. 118; 2/16/17 Tr. at 6 and Condition C.13.)

*Rodent control.*

112. The ANC argued that the Applicant should do more to control rodents/vermin on the Property. However, the Commission finds that the Applicant's rodent/vermin control plan will be satisfactory to control the problem, and rodent/vermin activity on the site is limited in any event. (Ex. 118E; 2/16/17 Tr. at 18-19.)

*Stormwater, runoff, and erosion/sediment control plan.*

113. One of the opponents argued that the Applicant does not have a plan to adequately protect against contaminated water runoff from site. However, the Commission finds that the Applicant does have such a plan and that it addresses this concern. The Commission credits the testimony of DOEE that it worked closely with the Applicant to develop a Soil Erosion and Sediment Control Plan. The Applicant will implement this plan, which will ensure that excess stormwater and any use of water on the site will not create hazardous or dangerous conditions from contaminants on the Property entering water sources. Further, the civil drawings include a site utility plan for storm drains and the underground infiltration system to capture stormwater runoff and an erosion and sediment control plan specifically to deal with the issue of preventing runoff of contaminated water/soil into surrounding areas and waterways. (Ex. 1A10, Sheets 2.02, 2.04, 2.05.) This will ensure that excess stormwater and any use of water on the site will not create hazardous or dangerous conditions from contaminants on the Property entering water sources. (Ex. 1A10, 121; 12/14/16 Tr. at 131, 147-48.)

*Guidelines and recommendations from CHASS and NJITR.*

114. The ANC and other opponents argued that the Applicant should adopt and follow the best practices from the CHASS and NJITR to protect the health of nearby residents. The Commission recognizes the importance of following best practices and understands the ANC's and opponents' concerns, but the Commission finds that the Applicant's plans for excavation and remediation will sufficiently protect the health of nearby residents commensurate with these recommendations. The Applicant's environmental expert reviewed the CHASS and the NJITR. To the extent that they are reasonable, feasible, and related to the Project, the Applicant will implement the best practices and recommendations from the CHASS and the NJITR during site excavation and remediation. Accordingly, the HHRA, VCAP, and DOCP will sufficiently include the key recommendations of the CHASS and the NJITR to protect the health of nearby residents. (12/14/16 Tr. at 139-40.)

*Stadium noise mitigation.*

115. The Commission finds that the Applicant will be able to sufficiently mitigate noise concerns through its commitment to work with the District. The Applicant produced a sound study that recognized that the District's noise regulations do not contemplate an open air stadium. Accordingly, the Applicant will work with DMPED to create a sound plan to address noise concerns and mitigate noise generation from the stadium. (Ex. 118, 118C.) Further, Condition C.13 of this Order requires that prior to the issuance of a certificate of occupancy, the Applicant shall provide evidence to the Zoning Administrator, that it has, in consultation with DMPED, other relevant District agencies, the ANC, and other stakeholders adopted a final sound plan concerning noise generation at the stadium.

### *Digital Signage*

116. The ANC stated their objection to digital signage on the exterior of the stadium. OP concurred with this condition and so does the Commission.

### Miscellaneous

#### *Buzzard Point Vision Framework Plan.*

117. The ANC expressed concerns that the BPVFP is in draft form and not adequate in its public involvement, that a particular statement in the BPVFP is not correct, and that the BPVFP identifies Half Street as a “transportation spine.” The Commission acknowledges these concerns about the BPVFP, but nevertheless finds that it is a useful guidance document for this PUD. Despite its status, the BPVFP’s guiding principles are relevant. Also, the Commission finds that the community was adequately involved in its development. Further, the Commission finds that the characterization of Half Street as a “transportation spine” is not accurate for the intended use of that street. The Commission credits the testimony of OP and DDOT in making these conclusions, as described in Findings of Fact No. 55(d) and 59(h) above.

#### *Loss of housing north of the stadium site.*

118. The ANC and others argued that the development of the stadium and associated infrastructure would result in the loss of housing north of the project site. However, the Commission finds that there is no basis to support this claim. The Commission credits the testimony of OP and DDOT, as described above in Findings of Fact No. 55(f) and 59(f), in making this finding.

#### *Compliance with the Environmental Protection Element of the Comprehensive Plan.*

119. An opponent cited two paragraphs from the Environmental Protection Element (617.1 and 617.2) and alleged the necessity of a comprehensive report regarding the environmental impact of the PUD. (Ex. 101A.) The Commission acknowledges this allegation but finds that further study of the site is not warranted. The Applicant’s HHRA thoroughly assessed the site conditions and what must be cleaned to protect health and the environment, including air and water.<sup>3</sup>

#### *Transparency of site clean-up and monitoring process.*

120. An opponent stated that the Commission “cannot consider the planning review in this case to be one of high enforcement, or transparency, or creatively seeking mitigation

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<sup>3</sup> The opponent cites a list of Comprehensive Plan directives and policies, but he does not make any allegations or offer explanation as to why the Project would be inconsistent with these particular directives and policies. Accordingly, these policies and directives are not material contested issues about which the Commission can make a finding or conclusion. (See Ex. 101A.).

conditions [sic]” and cited policies E-3.4.2 and E-3.4.4 and Action E.4.C of the Comprehensive Plan. (Ex. 101A.) However, the Commission disagrees with this conclusion. As described in the Findings of Fact above, the Applicant prepared studies and plans regarding clean up and monitoring that were reviewed and approved by DOEE and were presented to the ANC and the community. Furthermore, as described in the Findings of Fact, the Applicant will continue to file remediation and monitoring reports with DOEE, the ANC, and the community consistent with applicable laws and requirements. The Commission is not persuaded that the environmental decisions have not been transparent, are not monitored, and that applicable laws are not being enforced. Accordingly, the Commission finds that the Project will not be inconsistent with these policies.

*Impacts on public services.*

121. One opponent argued that the impact of the PUD on public services has not been evaluated and that they are not adequate to serve the stadium. The Commission recognizes opponent testimony regarding the adequacy of public systems serving the Project, but is not persuaded.<sup>4</sup> The Applicant provided data concerning water usage. (Ex. 1.) OP solicited comments from the various public services, including MPD, FEMS, DC Water, and DPW and incorporated such comments into OP’s report in assessing the overall impacts of the Project. “OP has worked with the Applicant and other District agencies to obtain additional information and to address concerns noted by the Zoning Commission, including regular meetings with the development team...and others... In general, at the interagency meeting, DC Water indicated that they were working with the design team to complete necessary calculations and complete permit review. MPD indicated that they would work closely with DC United and DDOT as the TOPP is developed.” (Ex. 42, p. 21.) Therefore, the Commission finds that the public service agencies adequately assessed the Project’s impacts and that there is no basis to believe that such impacts would not be acceptable.

*Jobs and small businesses.*

122. One opponent argued that jobs from the stadium should be provided to neighborhood residents and that small businesses should be helped. The Commission acknowledges opponent testimony regarding jobs and small business, but it does not agree that these are issues that would result in adverse conditions.<sup>5</sup> While the exact types and numbers of jobs from the stadium are not yet be known, the Applicant entered into multiple agreements with the District for the filling of the new jobs. These agreements include processes for finding suitable candidates and allocating jobs for District and neighborhood residents.

*Overall impacts on neighborhood, land values, and loss of affordable housing.*

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

123. The ANC and other opponents argued that the stadium should have positive effects on the community and expressed concern about the disruptive land values and loss of affordable housing resulting from the stadium. The Commission acknowledges ANC and opponent testimony regarding these concerns, but it is not persuaded that the Project will have such negative impacts.<sup>6</sup> Indeed, the Commission finds that the Project will have, on balance, positive impacts on the neighborhood and the District. The Commission credits OP testimony and analysis that the stadium will enhance Buzzard Point in many respects. With respect to land values and housing, OP solicited comments from DHCD and incorporated such comments into OP's report if applicable in assessing the overall impacts of the Project. Furthermore, "OP has worked with the Applicant and other District agencies to obtain additional information and to address concerns noted by the Zoning Commission, including regular meetings with the development team, DMPED, DDOT, DOEE, and others." (emphasis added). (Ex. 42, 121.) Therefore, the Commission finds that land values and affordable housing were appropriately assessed with the respect to the Project's overall impacts and that the stadium is likely to have a positive impact on the community and the District. The Commission credits the testimony of OP, as described in Finding of Fact No. 55(a) above, in making this finding.

#### **Compliance with PUD Standards**

124. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects." The Commission finds that the development incentives for the height and flexibility are appropriate and fully justified by the public benefits and project amenities proffered by the Applicant. The Commission finds that the Applicant has satisfied its burden of proof under the Zoning Regulations regarding the requested flexibility from the Zoning Regulations and satisfaction of the PUD standards and guidelines as set forth in the Applicant's evidence and testimony and the OP, DDOT, and DOEE reports.
125. The Commission credits the testimony of the Applicant and its experts as well as OP, DDOT, and DOEE and finds that the architecture, site planning, transportation planning and management, environmentally sustainable features, employment opportunities, and uses of special value of the Project all constitute acceptable project amenities and public benefits.
126. Based on the Applicant's testimony and OP's reports, the Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities, and is appropriate in public benefits and project amenities relating to urban design and architecture, site planning, effective and safe vehicular and pedestrian access, employment opportunities, and uses of special value to the neighborhood and the District as a whole.

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<sup>6</sup> *Id.*

127. The Commission credits the testimony of the Applicant regarding the community-based planning effort that guided the development of the Project, and finds that the process resulted in amenities that reflect community preferences and priorities. The Commission credits the testimony of OP that the PUD provides significant and sufficient public benefits and project amenities. (Ex. 42; 11/28/16 Tr. at 49-53.)
128. The Commission finds that the character, scale, uses, and design of the Project are appropriate, and finds that the Project is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits.
129. The Commission credits the testimony of OP that the Project will provide benefits and amenities of value to the community and the District commensurate with the flexibility and additional height sought through the PUD.
130. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's traffic consultant and DDOT and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area will not be unacceptable and are capable of being mitigated through the measures proposed by the Applicant and DDOT and are acceptable given the quality of the public benefits of the PUD.
131. For the reasons detailed in this Order, the Commission credits the testimony of the Applicant's consultants and finds that the environmental and health impacts of the Project on the surrounding area will not be unacceptable and are capable of being mitigated through the multiple clean-up, remediation, mitigation, monitoring, and containment measures planned by the Applicant (and approved by DOEE) and are acceptable given the quality of the public benefits of the PUD.
132. The Commission credits the testimony of OP and the Applicant that the Project is not inconsistent with the Plan and promotes multiple policies and goals in the citywide and area elements of the Plan as well as policies in the BPVFP.

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this Application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, and courts.

3. In deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.
4. The impact of the project on the surrounding area and the operation of city services and facilities shall not be found to be unacceptable, but shall instead be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project.
5. The Commission must also find that the proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.
6. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
7. Proper notice of the proposed PUD was provided in accordance with the requirements of the Zoning Regulations.
8. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a building type with more attractive and efficient overall planning and design not achievable under matter-of-right standards. Here, the height, character, scale, uses, and design of the proposed PUD are appropriate, and the proposed construction of a new professional soccer stadium that will improve obsolete industrial land in a transit-oriented and redevelopment-targeted location is compatible with the citywide and area plans of the District of Columbia.
9. The Commission finds that the Project advances the goals and policies in the citywide and area elements of the Comprehensive Plan, including:
  - a. Land Use Element policies promoting redevelopment around Metrorail stations, design to encourage transit use, parking near Metrorail stations, infill development, neighborhood revitalization, and redevelopment of obsolete industrial land;
  - b. Transportation Element policies promoting transit-oriented development, discouraging automobile-oriented uses, and innovative parking solutions;
  - c. Economic Development Element policies promoting maintenance of the District's competitive edge with regard to tourism; creating visitor attraction; public-private partnerships, revitalization planning; and job creation;
  - d. Urban Design Element policies promoting investment along the Anacostia River, protecting important views, enhancing river views, activating waterfront land, improving connections between the waterfront and neighborhoods, and strengthening neighborhood character and identity;

- e. Parks, Recreation, and Open Space and Arts and Culture Elements related to Anacostia Riverfront improvements and promoting cultural amenities; and
  - f. Lower Anacostia Waterfront Near Southwest Area Element policies promoting new waterfront neighborhoods, pedestrian-oriented waterfront uses, multi-modal waterfront streets, and waterfront cultural sites.
10. The Commission concludes that approval of the PUD is not inconsistent with the Comprehensive Plan and will advance policies in the BPVFP, including:
- a. The Commission agrees with the OP and the Applicant that the Project will advance many polices of the Plan and the BPVFP as discussed above in the Findings of Fact;
  - b. The Commission finds that the Project is not inconsistent with the Environmental Protection Element of the Plan. The multitude of environmental monitoring and safeguard measures that the Applicant will implement will ensure that the environment as well as the health and safety of nearby residents are adequately protected; and
  - c. The Commission agrees with the determination of OP and finds that the Project is not inconsistent with the Property's High-Density Commercial/High-Density Residential mixed use designation on the FLUM and with the Property's designation as a Land Use Change Area on the GPM.
11. The PUD will be within the applicable height and bulk standards of the Zoning Regulations. The proposed height and density will not cause an adverse effect on nearby properties, are consistent with the height and density of surrounding and nearby properties, and will create a more appropriate and efficient utilization of a prominent, transit-oriented site.
12. As noted, the Applicant requested special exception approval for a stadium use. A stadium use in neither permitted nor prohibited in the CR Zone District. Pursuant to 11 DCMR § 618.1 through 618.3, such "miscellaneous" uses are permitted in a CR Zone District as a special exception if the "use is appropriate in furthering the objectives of the CR Districts," will "not adversely affect the present character and future development of the neighborhood," and "no dangerous or otherwise objectionable traffic conditions will result.
13. Pursuant to 11 DCMR §§ 2405.7 and 2405.8, the Commission may approve any use that is permitted as a special exception and that would otherwise require the approval of the Board of Zoning Adjustment, and, in doing so, is not required to apply the special exception standards normally applied by the Board.
14. The Applicant has not requested flexibility to use different standards and has demonstrated that the applicable standards are met.



15. Based upon the Findings of Facts stated above, and the record as a whole, the Commission finds:
  - a. That the stadium use is acceptable in furthering the objectives of the CR Zone District by generally encouraging a diversity of new uses in the Buzzard Point neighborhood, and, in particular, by establishing new recreational and retail uses at the Property; (Ex. 1, 37B; 2/16/17 Tr. at 45-47.)
  - b. Pursuant to 11 DCMR § 618.2, the stadium will not adversely affect the present character and future development of the neighborhood. As described herein, the stadium will be a catalyst to improve the existing character of the Buzzard Point neighborhood and will provide an active and inviting use to a largely industrial neighborhood and will enhance services available to the residential neighborhood to the north;
  - c. Pursuant to 11 DCMR § 618.3, the stadium will not result in dangerous or otherwise objectionable traffic conditions. As described herein, the Applicant's preliminary transportation operations and parking plan and transportation demand management plan will sufficiently mitigate any adverse traffic conditions resulting from the establishment of the stadium;
  - d. Pursuant to 11 DCMR § 618.4, the Commission has thoroughly evaluated the design and appearance of the stadium, and as designed, it will protect neighboring and adjacent property; and
  - e. Pursuant to 11 DCMR §§ 618.5 & 618.6, as described herein, OP, DDOT, and other agencies have reviewed and evaluated the Application.
16. The Project will provide appropriate features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, environmental sustainability, and uses of special value all are significant public benefits. The impact of the Project will be acceptable given the quality of the public benefits of the Project.
17. Based on the Applicant's expert testimony, preliminary TOPP, TDM plan, DDOT's reports and testimony, and the Findings of Fact described above, the Commission finds that the Project will not have adverse impacts on vehicular, bicycle, or pedestrian traffic; roadways and sidewalks; public transit infrastructure; neighborhood parking; or other transportation-related facilities and conditions. The Commission finds that the Applicant will sufficiently mitigate potentially adverse traffic and transportation impacts resulting from the Project so that traffic and other transportation-related conditions resulting from the Project will not be unacceptable.
18. The Commission finds that the Applicant and the Project will address any adverse health impacts to nearby residents or workers due to site remediation, site excavation, or

construction. Based on the Applicant's expert testimony, various plans for site assessment and remediation, DOEE's reports and testimony, and the Findings of Fact described above, the Commission finds that the Applicant will sufficiently protect the environment and the health of nearby residents during site excavation, remediation, and construction so that environmental and health conditions will not be unacceptably harmed.

19. The Commission finds that the Project will not have adverse impacts on quality of life for nearby or District residents. The Commission acknowledges the testimony of one opponent that nearby residents will be threatened by the Project and have been overlooked in its planning, but the Commission disagrees.<sup>7</sup> The public benefits of the Project as well as its many transportation impact mitigation strategies and site clean-up and monitoring strategies will ensure the quality of life does not decline for nearby residents, and the economic impact of the Project likely will help nearby residents. Furthermore, the planning for the Project involved extensive public outreach and involvement, and the community will continue to be involved.
20. The PUD will promote orderly development of the Property in conformance with the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
21. The flexibility request to provide no on-site parking and to provide less than the required loading facilities is not only a reasonable trade-off for the benefits that will result from this stadium use, but are absolutely necessary for the use to be established. As noted the site is relatively small and encumbered by an easement that further restricts the use. To provide any parking on site, and the full loading facilities required is impracticable, and as demonstrated by the Applicant, unnecessary.
22. The Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. OP recommended approval with conditions to which the Applicant agreed. Accordingly, the Commission concludes that approval of the consolidated PUD should be granted in accordance with OP's recommendation.
23. In accordance with D.C. Official Code § 1-309.10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 6D the "great weight" to which they are entitled, and in so doing fully credited the unique vantage point that ANC 6D holds with respect to the impact of the proposed Application on the ANC's constituents. ANC 6D expressed many issues and concerns with respect to this Application, and in Findings of Fact Nos. 76 through 118 the Commission identified each issue concern expressed by

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<sup>7</sup> The opponent cites "relevant" Comprehensive Plan policies to support his position, but he does not make any allegations or offer explanation as to why the Project would be inconsistent with these particular policies. Accordingly, these policies are not material contested issues about which the Commission can make a finding or conclusion. (Ex. 88.)

ANC 6D and indicated why it did or did not find the ANC's advice persuasive. In doing so, the Commission gave ANC 6D its statutorily mandated great weight.

24. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

## **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission of the District of Columbia **ORDERS APPROVAL** of the Application for a consolidated PUD for the Property including the approval of a stadium use ("Project"). This approval is subject to the following guidelines, conditions, and standards of this Order:

### **A. Project Development**

1. The Project shall be developed in accordance with the plans marked as Exhibit 37B, as modified by the plans marked as Exhibit 97F of the record (including the signage plan marked as Sheets 22-34 of Exhibit 97F), and as modified by guidelines, conditions, and standards herein (collectively, the "Plans"). The Project shall include the secure bicycle storage space to promote alternative transportation to and from the site in accordance with Exhibit 97A, Figure 5; infiltration basins with sediment chambers located below the playing field to reduce the volume of stormwater runoff from the site; use of low- or no-flow fixtures throughout to reduce water consumption; use of environmentally preferable building materials including those with high recycled content; and low- or no-VOC emissions.
2. In accordance with the Plans, the Project shall be a stadium and ancillary facilities. The Project shall have a total of approximately 403,130 square feet of gross floor area (0.94 FAR), a lot occupancy of approximately 50%, and a maximum building height of 110 feet.
3. The stadium's principal use shall be the hosting of professional athletic team events, but also may be used to host events customarily held in such facilities including, but not limited to, performances, amateur sporting events, municipal functions, and public or private ceremonies.
4. The Project shall include no exterior digital signs.
5. The Applicant is granted the flexibility to provide no parking spaces on-site instead of the 1,450 parking spaces required by § 2101.1; and provide two service and two delivery spaces instead of the 30- and 55-foot loading berths and 100- and 200-square-foot loading platforms required by § 2201.1.

6. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary final selection of the exterior material color ranges of the materials types proposed based on availability at the time of construction;
  - c. To vary the final selection of landscaping materials utilized, based on availability and suitability at the time of construction;
  - d. To vary the final streetscape design and materials for improvements in the public space in response to direction received from District public space permitting authorities such as DDOT and the Public Space Committee;
  - e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, trim, louvers, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems; in addition, these minor refinements will not deviate from the overall appearance as depicted on the drawings, especially, but not limited to, height, scale, design, or architectural intent.
  - f. To make minor adjustments to the final designs of the public park and plazas/open spaces;
  - g. To make minor adjustments to the final designs of the 1st Street retail frontages in response to the requirements of specific retailers; and
  - h. To make minor adjustments to the final designs of all signs on the stadium consistent with the locations, sizes, materials, and other standards described in the signage guidelines included as Exhibit 97F in the record, except that, pursuant to Condition A.4, under no circumstances may the Project include exterior digital signs.

**B. Public Benefits**

1. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide evidence it has established the following programs that shall remain in place until at least December 1, 2044:
  - a. A soccer club at Amidon-Bowen Elementary School and Jefferson Academy Middle School;
  - b. A program to encourage childhood literacy and healthy lifestyle in partnership with Amidon-Bowen Elementary School and UNITY Health;
  - c. The provision of free game tickets or offerings of a similar value to students at Jefferson Academy Middle School;
  - d. The provision of full scholarships to 25 low-income children aged 5-17 to attend a weeklong DC United summer day camp;
  - e. On a biannual basis, identified skilled and qualified residents of ANC 6D aged 8-18 for invitation to sports clinics to qualify for scholarships to the D.C. United Training Program;
  - f. On an annual basis, purchased one full-page advertisement in each edition of a Southwest neighborhood newspaper, such as the “Southwester”;
  - g. Provided a minimum of three community days for use of the Stadium for registered not-for-profits;
  - h. Collaborated with the Department of Employment Services to provide young adults aged 16-25 in ANC 6D with summer youth and seasonal jobs;
  - i. Partnered with the Near SE/SW Community Benefits Coordinating Council and other locally-involved organizations to engage ANC 6D residents for outreach for employment and training;
  - j. Provided free meeting room space for use by non-profit organizations in ANC 6D, subject to availability;
  - k. Discussed opportunities for licensed food vendor space for residents in the Buzzard Point area that is consistent with the concessions partners’ operations;
  - l. Used reasonable best efforts to ensure that selected food and beverage concessionaire(s) provide at least eight stadium events for the Near

SE/SW Community Benefits Coordinating Council or a non-profit organization to operate a concession stand to support fundraising efforts to support Southwest community projects; and

- m. Contingent upon the Applicant identifying a sponsor to support a partnership with a healthcare provider, facilitate introductions between the Near SE/SW Community Benefits Coordinating Council, the District of Columbia and other stakeholders regarding the establishment of a healthcare facility or services in the stadium area.

2. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall:

- a. Demonstrate to the Zoning Administrator that it has registered the Project with the USGBC to commence the LEED certification process; and
- b. Furnish a copy of its LEED certification application submitted to the USGBC to the Zoning Administrator. The application shall indicate that the building has been designed to include at least the minimum number of points necessary to achieve LEED-Gold certification.

3. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall develop the public parks and plazas, and the new First Street, as follows:

- a. The area to the northeast of the stadium along Potomac Avenue extending from Half Street shall include a landscaped public park and an open space/entry plaza for walking and gathering, in accordance with Sheets 2.04 and 2.08-2.12 of the Plans;
- b. The area along the north side of the stadium and adjacent to the northwest entry gate and ticket windows shall include an open space for gathering and queuing, in accordance with Sheets 2.13-2.14 of the Plans;
- c. Two pocket parks along the west side of the stadium on 2<sup>nd</sup> Street, and another pocket park along the south side of the stadium on T Street, in accordance with Sheets 2.18-2.20 of the Plans, and subject to DDOT approval; and
- d. A new 1<sup>st</sup> Street along the east side of the stadium, running from Potomac Avenue to T Street. This new 1<sup>st</sup> Street shall be a private street open to the public, except when it is closed for an event. It shall contain two traffic lanes, curbside parking, and sidewalks. The sidewalks between the street and the retail storefronts shall be wide space to allow gathering and outdoor seating for the retail. The streetscape design elements for this street will mimic those of the public streets surrounding the Property, and shall be in accordance with Sheets 2.03-2.04 of the Plans.

4. **Prior to the issuance of a building permit for the Project**, the Applicant shall provide evidence of the following to the Zoning Administrator:
  - a. An executed First Source Agreement;
  - b. An executed Certified Business Enterprise Agreement; and
  - c. An executed Project Labor Agreement.

**C. Mitigation**

1. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide the Zoning Administrator with a Certificate of Completion of a Voluntary Cleanup Action Plan for the Property issued by the District of Columbia Department of Energy and Environment. If the agency has not issued a certificate by the date that the Project is eligible to receive a certificate of occupancy, the Applicant shall demonstrate to the Zoning Administrator that it has completed an approved Action Plan and indicated the date that it requested a certification of completion.
2. **During the excavation and remediation of the soil on the Property**, the Applicant shall implement and comply with the dust and odor control plan set forth in Exhibit No. 115 of the record.
3. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has undertaken the following actions with respect to implementation of the transportation demand management (“TDM”) plan as described on pages 32-33 of Exhibit 37A1 of the Record, and for the life of the Project, the Applicant shall continue to implement these actions:
  - a. TDM Communication with Community – the Applicant will implement a TDM communication program with the ANC and DDOT to advise and seek input on all TDM strategies;
  - b. General TDM Strategies:
    - i. The Applicant shall coordinate with the Nationals to avoid scheduling overlapping events. Events that occur on the same day will be separated by enough time to not place an excessive strain on the transportation and parking network. To the greatest extent possible, the Applicant shall avoid having any regular season games overlap between DC United and the Washington Nationals;
    - ii. The Applicant shall have message boards (e.g. television monitors) in the stadium that display real-time transit schedules, promotions

for alternative travel modes, and/or post-game specials at local establishments. DCU will commit to having monitors, placed near each of the exit and entry gates;

- iii. The Applicant shall provide incentives for patrons to use non-automobile modes, such as offering season ticket holders DC United-branded SmarTrip cards with preloaded fares or DC United-branded cycling apparel. The Applicant shall offer a non-auto incentive equal or exceeding any discounts for parking (i.e. if the Applicant offers discounted parking for season ticket holders, an equal or higher subsidy will be provided for season ticket holders that do not arrive to games via automobile); and
- iv. The Applicant shall publicize transit availability and encourage use. Information will be disseminated via the team website, mobile application and social media platforms. The Applicant shall also explore providing transit information as supplemental information on tickets;

c. Bicycle TDM Strategies:

- i. The Applicant shall monitor the amount of available bike parking and add more racks or more space to the valet as needed to accommodate demand and the Applicant shall have temporary bike racks available to use during game days to accommodate additional demand as necessary;
- ii. The Applicant shall market and encourage cycling to games, with activities like “Bike-to-Game” days with raffles and prizes. DCU commits to holding two “Bike-to-Game” days each season (or similar events) to promote cycling; and
- iii. The Applicant shall coordinate with WABA, Capital Bikeshare, and other cycling organizations to promote cycling;

d. Pedestrian TDM Strategies:

- i. The Applicant shall assist the District with their installation of permanent and temporary pedestrian-oriented wayfinding signage on roadways near the Stadium; and
- ii. The Applicant shall advertise primary pedestrian routing to and from the stadium supporting the physical signage through their website, mobile application and social media platforms; and



- e. Vehicular TDM Strategies:
  - i. The Applicant shall advertise primary vehicular routing to and from the stadium, alerting motorists to preferred driving routes that minimize congestion and avoid neighborhood streets;
  - ii. The Applicant shall notify motorists of any major traffic closures and incidents as information is available;
  - iii. The Applicant shall use programs that pre-allocate parking for season ticket holders to reduce the amount of circulation looking for parking;
  - iv. The Applicant shall help spread out vehicular demand arriving at the stadium on weeknight events, which would overlap with the evening commuter rush hour, to help to reduce the stadium's overall traffic impact;
  - v. The Applicant shall commit to holding an event (e.g. pre-concerts, stadium happy hours, tailgate parties etc.) every non-holiday weeknight game starting a minimum of two hours before start time;
  - vi. The Applicant shall investigate partnerships with parking applications to allow ticket holders to reserve a parking space in a garage thus reducing the amount of circulation looking for parking; and
  - vii. The Applicant shall reach out to Uber, Lyft, the Taxi Commission and any other hired vehicle services and coordinating routing and pick-up/drop-off locations.

- 4. **During the life of the Project**, the Applicant shall operate a free bicycle valet service.
- 5. **Prior to issuance of a Certificate of Occupancy**, the Applicant shall demonstrate to the Zoning Administrator that it has provided or can accommodate a minimum of 447 bicycle parking spaces on its property (including the valet spaces) and on the surrounding public space on 2<sup>nd</sup> Street, T Street, and R Street adjacent to the stadium, and Potomac Avenue between 1<sup>st</sup> Street and Half Street, S.W.
- 6. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide evidence to the Zoning Administrator that it has paid the cost of installing a new Capital Bikeshare station in the vicinity of the Project, and has coordinated with DDOT to arrange for the installation of a bottomless corral for overflow on event

days. The exact station location, number of stalls, and number of bikes shall be determined by DDOT.

7. **For the life of the Project**, the Applicant shall schedule loading activities to occur primarily on non-game and non-event days and underneath the stadium seating bowl to minimize potential automobile and pedestrian conflicts.
8. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide evidence to the Zoning Administrator, that it has, in consultation with DDOT and other relevant District agencies, the ANC, and other stakeholders adopted a final TOPP substantially similar to the preliminary TOPP included as Exhibit 118A in the record.
9. **During the life of the Project**, the Applicant shall abide by the terms of the final TOPP. The Applicant shall be permitted to modify the final TOPP in consultation with DDOT, other relevant agencies, the ANC, and the stakeholders in response to changing conditions and information.
10. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide evidence to the Zoning Administrator, that it has, in consultation with DMPED, other relevant District agencies, the ANC, and other stakeholders adopted a final sound plan concerning noise generation at the stadium.
11. **Prior to the issuance of a Certificate of Occupancy**, the Applicant shall provide evidence to the Zoning Administrator that it has commitments, in the form of signed letters of intent, to use at least 3,750 off-street parking spaces.
12. **Prior to issuance of a Building Permit**, the Applicant shall demonstrate to the Zoning Administrator that it has contributed \$50,000 to Breathe DC for the purchase and distribution of air purifiers to nearby residents, and shall provide proof to the Zoning Administrator that the air purifiers are being provided.

**D. Miscellaneous**

1. The Applicant (or another party) shall be required to apply to the Commission for approval of a modification<sup>8</sup> for the final design of the separate retail building located at the northeast corner of 1<sup>st</sup> and T Streets, S.W. prior to receiving a building permit for that building.
2. The Applicant (or another party, as applicable) shall be required to apply to the Commission for design review and approval for the development of the ancillary Parcel B, the development parcel east of 1<sup>st</sup> Street, S.W. between the new public park and S Street, S.W. and as indicated in Exhibit 37B in the record.

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<sup>8</sup> The Commission shall determine at the time the application is received whether the application is a modification of consequence or modification of significance.

3. No building permit shall be issued for this project until the owner of the Property has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the owner of the Property and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Commission.
4. The Application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction must commence no later than three years after the effective date of this Order.
5. The Applicant shall file with the Zoning Administrator a letter identifying how it is in compliance with the conditions of this Order at such time as the Zoning Administrator requests and shall simultaneously file that letter with the Office of Zoning.
6. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On February 16, 2017, upon the motion of Vice Chairman Miller, as seconded by Chairman Hood, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its special public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on April 21, 2017, except that the Department of Consumer and Regulatory Affairs may issue building permits necessary for the Project upon receipt of a signed version of this order as issued by the Office of Zoning.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.



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**ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION**



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**SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING**