

CARLOS ROSARIO INTERNATIONAL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****Internet Broadband Access**

Carlos Rosario International Public charter School is seeking a cost-effective, reliable solution to increase its current 1.5 mb broadband connection via T-1 to either a bundled T-1 or Ethernet Metro Solution of 6 – 10mb. Respondents need to guarantee reliable, sustained connection speeds that meet or exceed industry standards. For a copy of the full RFP, **please contact Gwen Ellis** at 202-797-4700 or email her at gellis@carlosrosario.org.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES

PUBLIC NOTICE OF FUNDING AVAILABILITY

INCOME MAINTENANCE ADMINISTRATION (IMA)
DOMESTIC VIOLENCE PROGRAM GRANT
DV-0730-08

The Department of Human Services (DHS), Income Maintenance Administration (IMA) is the lead agency in the District of Columbia for the implementation of the Temporary Assistance for Needy Families (TANF) Program, under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Time limited assistance is available through TANF for eligible families. As a condition of eligibility, applicants and recipients must comply with program requirements, which are designed to encourage and support personal accountability and self-sufficiency. One of the barriers that may impede progress toward self-sufficiency is domestic violence.

The experience of the IMA indicates that customers are often hesitant to disclose that they are current or past victims of domestic violence to caseworkers, especially at the time of application for benefits. It is essential to provide opportunities for disclosure and to address the impact and effect of domestic violence.

The District has grant funds available through TANF to assist customers to identify and to overcome barriers to self-sufficiency due to domestic violence. Customers who disclose either an interest in or need to confront issues of domestic violence will be referred to those trained in domestic violence intervention for screening, assessment, and supportive services. Additionally, the provider of the support services will conduct community outreach to TANF customers to raise awareness about domestic violence and the services available through the grant funded program.

DHS/IMA intends to award one grant to community based and/or a faith-based organization that will provide domestic violence support services as outlined in the Program Scope in Section II. The total amount available for the grant is \$175,000. The funds are made available through the U.S. Department of Health and Human Services, Temporary Assistance for Needy Families (TANF) program.

The Request for Application (RFA) will be released on Thursday, June 19, 2008. The RFA may be obtained from DHS/IMA located at 645 H Street, NE, Washington, D.C. 20002. In addition, the RFA will also be available on the Mayor's Office of Partnership and Grants Development website (<http://www.opgd.dc.gov>) under the link to the District Grants Clearinghouse. For additional information, please contact Ms. Betty Ervin, Department of Human Services, Office of Grants Management at 202-671-4397.

The deadline for submission is Wednesday, July 30, 2008 at 4:00 p.m.

Applicants are encouraged to attend the Pre-Application conference scheduled for Tuesday, July 8, 2008 from 10:00 am until 12:00 noon at the Income Maintenance Administration, 645 H Street, NE; 5th Floor Conference Room, Washington, D.C., 20002. Applicants interested in attending the Conference should RSVP to Marchelle White, DHS/IMA at (202) 698-3942 on or before Wednesday, July 2, 2008.

**INTEGRATED DESIGN & ELECTRONICS ACADEMY (IDEA)
PUBLIC CHARTER SCHOOL**

NOTICE OF A REQUEST FOR PROPOSALS

Catered School Lunch Program

The Integrated Design & Electronics academy (idea) Public Charter School is requesting proposals from catering/food service vendors to provide lunch meals, utilizing United States Department of Agriculture (USDA) commodities for students for the 2008-09 school year, with possible extension of four (4) one-year renewals.

Proposal submissions should be based on preparation and delivery of one-hundred (100) meals daily, four days per week, Monday through Thursday, with the possibility of Friday service and increased meal count up to 450 meals per day (based on demand). IDEA Public Charter School will pay up to \$3.00 per meal, exclusive of milk.

Proposals must include a reduction in the overall contract price for utilizing USDA commodities towards lunch meals. Instructions are given in the IFB packet. All meals must meet the minimum National School Lunch Program (NSLP) meal pattern requirements. IFB packet, meal pattern requirements, production record/delivery ticket, a list of available commodities, sample menu, and all necessary forms may be obtained from the front office of IDEA Public Charter School located at 1027 45th Street, NE – Washington, DC 20019.

Interested parties will state their credentials and provide appropriate licenses, references, sample menus and scope of work with the IFB packet. Selection of vendor will be based on quality of food (taste test), cleanliness of preparation facility, and timeliness of delivery.

Proposals will be received at IDEA Public Charter School, 1027 45th Street, NE – Washington, DC 20019 until 12:00 PM (EST) June 30, 2008. All proposals must be sealed and marked – Attention: SFC Carroll Travers, RFP School Lunch Program. Copies of the proposal specifications and statement of work can be obtained from the Main Office at IDEA. Please contact Morris Redd at 202-399-4750 ext. 224 or SFC Carroll Travers at ext. 205 with any inquiries.

KAMIT INSTITUTE
Invitation to Bid

The Kamit Institute for Magnificent Achievers Public Charter School (Kamit-PCS) is accepting bids until June 23, 2008 at 5:00pm for the delivery of meals to students enrolled at our school. All meals must meet but are not restricted to minimum National School Breakfast and Lunch Program meal pattern requirements. The contract will run from September 2, 2008 thru August 15, 2009. All interested parties may obtain forms from:

Business Office
Kamit Public Charter School
100 Peabody Street NW
Washington, DC 20011
(202) 723-7886 ext 223
Email: jmyerskimapcs@yahoo.com
Fax: 202-723-0239

**KAMIT INSTITUTE
Invitation to Bid**

The Kamit Institute for Magnificent Achievers Public Charter School (Kamit-PCS) is accepting bids until June 23, 2008 at 5:00pm for the delivery of psychological counseling, physical and occupational therapy, speech and language services, and student evaluations. All providers must possess certification and licensures. The contract will run from September 2, 2008 thru August 15, 2009. All interested parties may obtain forms from:

Business Office
Kamit Public Charter School
100 Peabody Street NW
Washington, DC 20011
(202) 723-7886 ext 223
Email: jmyerskimapcs@yahoo.com
Fax: 202-723-0239

**KAMIT INSTITUTE
Invitation to Bid**

The Kamit Institute for Magnificent Achievers Public Charter School (Kamit-PCS) is accepting bids until June 23, 2008 at 5:00pm for the delivery of Security Services for 250 Staff and Students located at our first floor facility. The hours of operation are 7:30am to 5:30pm. Security shifts are from 7:30 am to 7:00pm. The contract will run from September 2, 2008 thru June 30, 2009. All interested parties should submit their bids to:

Joshua Myers
Business Office
Kamit Public Charter School
100 Peabody Street NW
Washington, DC 20011
(202) 723-7886 ext 223
Email:jmyerskimapcs@yahoo.com
Fax: 202-723-0239

**KAMIT INSTITUTE FOR MAGNIFICENT ACHIEVERS (KIMA) PUBLIC
CHARTER SCHOOL**

EDUCATION

Is seeking energetic, highly motivated, and versatile individuals for the following positions:

ALL POSITIONS ARE FULL TIME

Teachers (grades 6-12)

Mathematics

- Algebra, Geometry, Algebra II, Pre-Calculus

Science

- Biology, Environmental Science, Middle School Science, Chemistry, Physics, Earth Science

Foreign Language

- French, Spanish

Computer Technology

Special Education Teacher

On Call and Long Term Substitute Teachers

Guidance Counselor

**Head of Security, Security Monitors
(Male and Female)**

Admin Assistant

Send resumes, cover letters and also indicate which position you are applying for:

**Kamit Institute for Magnificent Achievers Public Charter School
(KIMA PCS)**

100 Peabody Street NW 1st Floor Washington, DC 20011

Attention: Human Resources

Joshua Myers

Email: jmyerskimapcs@gmail.com

Phone: 202-723-7886 ext 223

Fax: 202-723-0239

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17672 of LHO Washington Hotel Four LLC, pursuant to 11 DCMR § 3103.2, for a variance from the prohibition of expanding the gross floor area of a hotel by increasing the function or meeting space with the construction of an addition to a hotel existing on or before May 16, 1980, under § 350.4(d), in the R-5-E district at premises 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858).

HEARING DATE: October 23, 2007

DECISION DATE: December 4, 2007

DECISION AND ORDER

This self-certified application was submitted May 14, 2007 by LHO Washington Hotel Four LLC (the "Applicant"), the owner of the property that is the subject of the application. The application requested a variance from the provisions of 11 DCMR § 350.4(d) prohibiting the expansion of gross floor area or the increase in function or meeting space within a hotel existing on or before May 16, 1981, to allow the construction of an addition to an existing hotel, the Hotel Helix, in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858).¹ Following a public hearing and public meeting, the Board voted on December 4, 2007 to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated May 16, 2007, the Office of Zoning provided notice of the application to the Office of Planning; the Department of Transportation; the Councilmember for Ward 2; Advisory Neighborhood Commission ("ANC") 2F, the ANC within which the subject property is located; and Single Member District/ANC 2F02. Pursuant to 11 DCMR § 3113.13, on June 8, 2007 the Office of Zoning mailed letters or memoranda providing notice of the hearing to the Applicant, ANC 2F, and owners of property within 200 feet of the subject property. Notice of the public hearing was published in the D.C. Register on August 17, 2007 (54 DCR 8067).

¹ The relevant provision in § 350.4(d) refers to hotels "in existence as of May 16, 1980."

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Party Status. In addition to the Applicant, ANC 2F was automatically a party in this proceeding. At the public hearing, the Board granted party status in opposition to the application to a party comprising two residents of the 1400 block of Rhode Island Avenue, N.W., Jeffrey Dziejewczynski and Stuart Serkin. A request for party status in opposition to the application from Emanuel Silberstein was withdrawn.

Applicant's Case. The Applicant provided evidence and testimony from Dean Lopez, the senior vice president of development for LaSalle Hotel Properties, a real estate investment trust that owned 31 hotels, including the Hotel Helix and six others in the District of Columbia, and was an affiliate of LHO Washington Hotel Four, LLC; Clint Brackman, an expert in architecture; and Michael Damian, the manager of the Hotel Helix. The Applicant described plans to construct a small one-story addition to the existing hotel building to provide additional space for meeting rooms. According to the Applicant, construction of the proposed addition was the only way to create a meeting area at the subject property that would provide a flexible, adaptable space that would be suitable for larger functions and consistent with the industry standard of an unobstructed floor plan.

The Applicant stated that the hotel was not performing as well as comparable hotels in its "competitive set" – that is, hotels in proximity to the subject property and competitive with the Hotel Helix with respect to rates and amenities – in that a higher proportion of guests at the Hotel Helix were transients (night-to-night) rather than groups, which were less labor-intensive and could be served more efficiently. The lack of adequate meeting space, similar to that found at comparable hotels, was cited as a factor that made the Applicant's hotel less attractive to groups of guests.

The Applicant requested an area variance from § 350.4(d) because the proposed addition would add both to the gross floor area of the hotel and to the floor area within the hotel dedicated to function or exhibit space. According to the Applicant, unique conditions affected the subject property, especially in that the hotel was converted from an apartment building and the hotel space could not be expanded without also expanding the building envelope due to the structural layout of the building, the location of a ramp to an underground parking garage, and the irregular shape of the subject property. The Applicant testified that the unique conditions gave rise to practical difficulties in complying with the Zoning Regulations because the hotel lacked space within the existing building to accommodate any medium-sized function or meeting area, which was integral to the operation of the hotel. The structural system and configuration of the building, especially its large side yards, limited the Applicant's ability to combine spaces within the building to accommodate groups that presently used the building or the larger groups that the hotel wished to attract.

The Applicant stated that its proposed *de minimus* addition – a two-percent increase in existing gross floor area – would allow for the continued operation of the hotel but would not convert the hotel into a major conference center. According to the Applicant, the planned addition would not cause any increase in vehicular traffic, any significant increase in off-site traffic to the site, or any major change in hotel operations.

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Government Reports. By memorandum dated October 11, 2007, the Office of Planning (“OP”) recommended approval of the application as consistent with the requirements for variance relief.

ANC Report. By letter dated November 30, 2007, ANC 2F indicated that, at a duly noticed public meeting on September 5, 2007, with a quorum present, the ANC voted 3-0 to recommend approval of the application. According to ANC 2F, the Applicant had “successfully demonstrated that an exceptional condition existed, and that there was a practical difficulty or special circumstance and that there would be no harm to the public good or zone plan” associated with approval of the requested variance.

Party in Opposition to the Application. The party in opposition argued that the application should be denied because the addition would exacerbate existing adverse conditions arising from the operation of the hotel, especially with respect to traffic, parking, noise, and trash.

Persons in Support of the Application. The Board received letters and heard testimony in support of the application from several persons living in proximity to the subject property, who stated generally that the modest size of the addition would not create objectionable impacts in the neighborhood. The persons in support also commented favorably on the design of the addition and on the hotel’s plans to install new landscaping and to repair a failing party wall between the subject property and an abutting condominium building.

FINDINGS OF FACT**The Subject Property and Surrounding Area**

1. The subject property is located at 1430 Rhode Island Avenue, N.W., on the south side of the street between 14th and 15th Streets (Square 211, Lot 858).
2. The lot is generally rectangular, approximately 107 feet wide and 156 feet long, with an irregular rear boundary. The lot has an area of 18,194 square feet.
3. The property is improved with a multistory building, approximately 89 feet in height, used as a hotel with 179 rooms (109,164 square feet of gross floor area). The building was constructed in 1965 and was apparently converted from apartment to hotel use in the late 1970s. The first floor contains a restaurant/lounge, space used by hotel employees to operate the business, and a series of small conference rooms used as meeting space for hotel guests and events.
4. The building is set back approximately 10 feet from the street, and approximately 25 feet from the side property lines for most of the distance of the lot. The side setbacks are open courts, extending approximately 93 feet from the front of the property on each side of the building. The west court is currently used as outdoor space for the hotel restaurant,

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- and is accessible to the public only through the restaurant. The east court is partly landscaped and contains some mechanical equipment.
5. The subject property provides 36 parking spaces. A below-grade garage accessed from the alley at the rear of the subject property contains 33 parking spaces. The garage is reserved for use by registered guests, whose vehicles are parked by a valet service. Three spaces at the front of the building (two of which are in public space) are accessed via a semicircular driveway from the street and are used as service/delivery spaces and as stacking spaces for the valet parking operation.
 6. The subject property is located within the Greater 14th Street Historic District. The building is not a contributing building to the historic district. The Historic Preservation Office approved conceptual plans for the new addition.
 7. The subject property is located in the Logan Circle neighborhood, a high-density residential transition area between the high-density mixed-use and commercial development of the downtown area south of Massachusetts Avenue and the lower density residential areas to the north. Properties in the vicinity of the subject property are developed primarily with row dwellings or multistory apartment buildings and hotels.
 8. The hotel currently has a total of approximately 2,000 square feet of meeting space in four separate rooms on the ground floor at the rear of the building. Each room is approximately 20 feet by 30 feet in size. The current space can accommodate meetings of as many as 150 people in small groups.
 9. The hotel's existing meeting space is limited in size and configuration due to its creation in the conversion of the building to hotel use from a residential apartment building that lacked large common areas. The existing meeting rooms cannot be combined into a larger space because of structural constraints relating principally to the columnar structure of the building, which was made of cast-in-place reinforced concrete with column widths ranging from approximately 11 feet to 14 feet from the center. The meeting rooms have low ceilings – the floor-to-ceiling height is approximately eight and a half feet – and thus poor sight lines, and lack the technological features generally used in meeting spaces.

Applicant's Proposal

10. The Applicant proposed to construct a one-story addition on the ground floor of the hotel building to create a flexible meeting space capable of accommodating up to 150 people in a single room with unobstructed floor space. The addition, which will include a small storage area, will serve larger and different types of meetings and functions than the hotel is currently able to host.

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11. The addition will be located on the east side of the subject property in the area currently used as a courtyard, eliminating the side yard setback and extending the northeast exterior wall to the property line. The addition will measure approximately 93 feet deep and 25 feet wide, containing approximately 2,189 square feet of floor area.
12. The new addition will have a green roof. The mechanical equipment currently housed in the courtyard will be relocated to the roof of the addition.
13. After construction of the addition, the small rooms currently used as meeting space will be used for smaller meetings or as a pre- or post-function area to support the new meeting space, providing, for example, food and beverage service for groups using the addition. The hotel presently lacks space for a pre- or post-function area.
14. The three-space parking area in the front of the hotel will be reduced to two spaces. A landscaped green space will be created in the public space in front of the subject property.
15. The new addition will increase the floor area of the hotel by two percent, and will increase lot occupancy from 61 percent to approximately 73 percent.

Harmony with Zone Plan

16. The subject property is zoned R-5-E. The R-5-E district is a general Residence district designed to permit flexibility of design by permitting in a single district all types of urban residential development if they conform to the height, density, and area requirements established for the districts. 11 DCMR § 350.1. A relatively high height and density are permitted in the R-5-E district. 11 DCMR § 350.2.
17. A hotel in existence as of May 16, 1980 is permitted as a matter of right in the R-5-E district, although the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. 11 DCMR § 350.4(d).
18. The building on the subject property conforms to the requirements of the R-5-E district with respect to height, minimum lot dimensions, and lot occupancy. No side yard is required in the R-5-E district.

CONCLUSIONS OF LAW

The Applicant seeks an area variance from prohibitions under § 350.4(d) against increasing the gross floor area of a hotel in existence as of May 16, 1980 or the total area within the hotel devoted to function rooms or exhibit space to allow the construction of an addition, to be used as meeting space, at a hotel in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858). The Board is authorized under § 8 of the Zoning Act to grant variance relief where,

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“by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,” the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. *See* 11 DCMR § 3103.2.

The Board concurs with the Applicant that the subject property faces an exceptional situation or condition due to a confluence of factors. The building on the subject property was constructed and used as an apartment house prior to its conversion to hotel use, and thus lacks certain features typically found in hotels, such as large common areas. The conversion to hotel use was undertaken as a matter of right, but subsequent amendments to the Zoning Regulations restricted the Applicant’s ability to enlarge the hotel building or to alter the hotel operation by creating additional meeting space within the building. Structural features of the building, especially the limited space between columns and the relatively low ceilings, the irregularly shaped lot, the siting of the building on the lot, and the large side yards also constrain the Applicant’s ability to create a larger meeting space, consistent with the industry standard high ceiling and unobstructed sight lines, within the existing building.

The Board concurs with the Applicant that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant as the owner of the property. Absent the proposed addition, the hotel at the subject property would be unable to create a larger meeting space that the Applicant testified was integral to the successful operation of the hotel.

The Board concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan. The relatively small addition will not cause the hotel to become a convention center, and thus is not likely to generate additional traffic or parking that could adversely affect the use of neighboring properties. The addition will provide a flexible space able to accommodate up to 150 people in a single room, the same capacity as the series of small meeting rooms currently used by the hotel. The hotel’s total meeting capacity will not increase appreciably, however, because the current meeting rooms will be devoted largely to functions supporting the principal meeting space in the new addition. The Board notes that residents living near the hotel commented favorably on the design of the planned addition, which also received conceptual approval from the Historic Preservation Office. The Board was not persuaded by the party in opposition that the new addition would create adverse conditions with respect to traffic, parking, noise, or trash.

The Board is required to give “great weight” to the issues and concerns of the affected Advisory Neighborhood Commission and to the recommendations of the Office of Planning. Both the Office of Planning and ANC 2F recommended approval of the application.

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Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and ANC 2F, the Board concludes that the Applicant has satisfied the requirements for an area variance, pursuant to § 3103.2, from the prohibitions in § 350.4(d) against the expansion of gross floor area or the increase in function or meeting space within a hotel existing on or before May 16, 1980, to allow the construction of a one-story addition containing meeting space at a hotel in the R-5-E district at 1430 Rhode Island Avenue, N.W. (Square 211, Lot 858). Accordingly, it is therefore **ORDERED** that the application is **GRANTED**.

VOTE: 4-0-1 (Ruthanne G. Miller, Shane L. Dettman, Marc D. Loud, and
Curtis L. Etherly (by absentee ballot) voting to approve; no
other Board Member participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: JUN 09 2008

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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

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AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17707 of Kathryn Hodges, pursuant to 11 DCMR § 3103.2, for variances from the lot area and lot width requirements of § 401, and a variance from the side yard requirement of § 405.9, to allow the construction of a new semi-detached dwelling in the R-2 District at premises 5369 Hayes Street, N.E. (Square 5209, Lot 29).

HEARING DATE: January 22, 2008

DECISION DATE: February 12, 2008

DECISION AND ORDER

This application was submitted on July 27, 2007 by Kathryn Hodges (“Applicant”), the contract purchaser of the property that is the subject of the application (“subject property”). The Applicant had written permission from the owner of the subject property to submit, and prosecute, this application. (Exhibit No. 7). The self-certified application requested three variances necessary to permit the Applicant to construct a one-family semi-detached dwelling on the subject property.

The Board of Zoning Adjustment (“Board” or “BZA”) held a hearing on the application on January 22, 2008. At its decision meeting on February 12, 2008, the Board voted 4-1-0 to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated July 31, 2007, the Office of Zoning (“OZ”) provided notice of the application to the D.C. Office of Planning (“OP”), the D.C. Department of Transportation, Advisory Neighborhood Commission (“ANC”) 7C, the ANC within which the subject property is located, the Single Member District member for district 7C06, and the Councilmember for Ward 7. Pursuant to 11 DCMR § 3113.13, the Office of Zoning published notice of the hearing in the *D.C. Register*, and sent such notice to the Applicant, ANC 7C, and all owners of property within 200 feet of the subject property.

Requests for Party Status. A neighbor requested opponent party status, asserting that the proposed dwelling is too large for the lot, and that it may cause an increase in traffic on Hayes Street. The neighbor, however, did not appear at the hearing, and her request was denied by the Board.

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Applicant's Case. The Applicant appeared alone and represented herself. She testified concerning the nature of the proposed project and the variances requested. She stated that she based her design on the dwelling to the east, which had received similar variance relief from the Board in Board of Zoning Adjustment Order No. 17511.

Government Reports. The Office of Planning filed a report with the Board dated January 15, 2007 recommending partial approval and partial denial of the application. OP recommended approval of the variances from lot area and lot width, but recommended denial of the side yard variance. OP suggested that some degree of side yard relief could be acceptable, but not such as proposed, whereby the dwelling is constructed on one side lot line, leaving a 5-foot side yard between the dwelling and the other side lot line.

ANC Report. The Board did not receive a report from ANC 7C.

FINDINGS OF FACT*The Subject Property and the Neighborhood*

1. The subject property is located in an R-2 zone district at address 5369 Hayes Street, N.E., on Square 5209, Lot 29.
2. The subject lot is vacant and dates to at least 1906.
3. The lot is 25 feet wide and 100 feet long, resulting in an area of 2,500 square feet.
4. In an R-2 zone, the minimum permissible lot width is 30 feet and the minimum permissible lot area is 3,000 square feet. 11 DCMR § 401.
5. Therefore, the lot's area and width are both 83% of what is required.
6. The lot is a straightforward rectangular shape fronting on Hayes Street and has no rear alley.
7. The property is flanked to the west and east by two similarly shaped rectangular lots, neither of which is owned by the Applicant.
8. On the lot to the east is a semi-detached one-family dwelling built on that lot's eastern lot line, resulting in a five-foot side yard between its western wall and the eastern lot line of the subject property.
9. The neighborhood is comprised of one-family detached and semi-detached dwellings, with a few churches in the area.

The Proposed Project

10. The Applicant proposes to construct a 20-foot wide, three-story one-family semi-detached dwelling on the subject property.

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11. A one-family semi-detached dwelling is a matter-of-right use in the R-2 zone district and is defined as a dwelling “the wall on one (1) side of which is either a party wall, or lot line wall, having one (1) side yard.” 11 DCMR § 199.1, definition of “Dwelling, one-family detached.”
12. The proposed structure meets the latter portion of this definition because its eastern wall is a “lot line wall” and it will have one side yard between its western wall and its western lot line.

Variance Relief

13. Pursuant to 11 DCMR § 401.2, a structure may be erected on a substandard vacant lot “if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under § 401.3; provided, that the structure shall comply with all other provisions of” Title 11.
14. Since the subject property’s lot’s area and width meets 83% of both requirements, a new structure may be built as long as all other area requirements are met.
15. In this R-2 district, § 405.9 of the Zoning Regulations requires a minimum side yard width of eight feet. 11 DCMR § 405.9.
16. The proposed side yard would have a width of five feet.
17. Providing a single eight-foot side yard would only reduce the width of the proposed dwelling by three feet, allowing for a building width of 17 feet.

CONCLUSIONS OF LAW

The Board is authorized to grant variances from the strict application of the Zoning Regulations to relieve difficulties or hardship where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of the property D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2. Relief can be granted only “without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

An applicant for area variances must make the lesser showing of “practical difficulties,” as opposed to the more difficult showing of “undue hardship,” which applies in use variance cases. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicant in this case, therefore, had to make three showings: exceptional condition of the property, that such exceptional condition *results in* “practical difficulties” to the Applicant, and that the granting of

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the variances will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

Because the lot's width and area meet at least 80% of that required, construction of a new structure is permitted on this lot as long as it complies with all other provisions of Title 11. 11 DCMR § 401.2. That is not that case here because the proposed structure will have a five-foot side yard, whereas an eight-foot side yard is required. The Applicant desires to build a dwelling with a width of 20 feet. A 17-foot wide dwelling, built on the eastern lot line with a conforming eight-foot western side yard, could be constructed as a matter-of-right semi-detached dwelling. The Applicant has not explained why construction of a matter-of-right structure, three feet narrower than proposed, would present a practical difficulty. In fact, internal space lost due to the slightly narrower dwelling could be made up by making the dwelling deeper, as there is a rear yard of 46 feet, when only 20 feet is required. 11 DCMR § 404.1. The Board therefore concludes that any practical difficulty in complying with § 405.9 does not arise out of the exceptional condition of the property, as it must in order to grant variance relief.

Since the Applicant did not demonstrate why variance relief from the side yard requirement of § 405.9 is warranted, it follows that no variance can be granted from the requirement of § 401.2 that a structure on this size lot meet that and all other requirements of Title 11.

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive. ANC 7C did not file a report with the Board and so there is nothing to which the Board can accord great weight.

The Office of Planning did not object to lot area, lot width, and partial side yard relief, but did object to the elimination of the eastern side yard. OP proposed as an acceptable solution a 17-foot wide detached dwelling in the center of the property with four-foot side yards on each side. OP's position was premised on its belief that § 405.3 requires two side yards when a one-family dwelling is not attached to another dwelling, even if it has a lot line wall, as here. While the Board entertained this reading of the regulation at the hearing and in its deliberations, and provided the Applicant the opportunity to revise her plans to meet OP's concerns, that interpretation is contrary to past precedent. The Board rejected this very same contention in *Appeal No. 16935 of Southeast Citizens for Smart Development*, 50 DCR 8108 (2003), in which the Board noted that:

By definition, a semi-detached dwelling is required to have only one side yard, not two. [Appellant's] interpretation of § 405 would, in effect, require two side yards instead of one whenever a semi-detached dwelling has a lot line wall instead of a common division wall. ... [T]he BZA reads § 405.3 of the Zoning Regulations to require only one side yard for one family semi-detached dwellings.

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Id. at 8118. *See e.g., Appeal No. 17085 of Louise and Larry Smith and Mary Ann Snow and James Marsh, 52 DCR 5270, 5275 (2005) (§405.3 “does not prohibit the construction of new end-unit row dwellings, or any new row dwelling, regardless of whether the structure shares one or (sic) common division wall, or none at all.)*

While the Board does not find persuasive OP’s recommendation that variance relief is required from § 405.3, it does find persuasive OP’s assessment that Applicant has not shown why a 17-foot wide dwelling with the same square footage as proposed, but extending deeper into the yard would result in a practical difficulty upon the owner.

Accordingly, Applicant has failed to meet the variance test with respect to § 405.9 and thereby § 401.2. Therefore, it is hereby **ORDERED** that the application is **DENIED**.

VOTE: **4-1-0** (Ruthanne G. Miller, Marc D. Loud, Shane L. Dettman, and Mary Oates Walker to deny; Anthony J. Hood, to approve)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: **JUN 13 2008**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17762 of District-Properties.com LLC, pursuant to 11 DCMR § 3103.2, for a variance from the lot area and lot width requirements under section 401, a variance from the lot occupancy requirements under section 403, and a variance from the side yard requirements under section 405, to construct a new one-family detached dwelling in the R-2 District at premises 2237 Ridge Place, S.E. (Square 5624, Lot 59).

HEARING DATE: May 13, 2008, June 10, 2008

DECISION DATE: June 10, 2008

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 8A, the Office of Planning (OP) and to owners of property within 200 feet of the site. The OP submitted a report and testified at the public hearing in support to the application. The ANC did not participate in the case.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 401, 403, and 405, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and

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conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application (pursuant to Exhibits 7 and 19 – Revised Elevations) be **GRANTED**.

VOTE: 4-0-1 (Ruthanne G. Miller, Marc D. Loud, Mary Oates Walker and Shane L. Dettman to Approve, the Zoning Commission member not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: JUN 11 2008

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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

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PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17770 of Blagden Alley LLC, pursuant to 11 DCMR § 3104.1, for a special exception to establish two (2) accessory parking spaces serving 926 N Street, N.W. under section 2116, in the R-4 District at premises 934 N Street, N.W. (Square 368, Lot 909).

HEARING DATE: June 10, 2008
DECISION DATE: June 10, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 2116. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2116, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 2 – Plat) be **GRANTED**.

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VOTE: 4-0-1 (Ruthanne G. Miller, Michael G. Turnbull, Marc D. Loud and Shane L. Dettman to Approve. Mary Oates Walker not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: June 11, 2008

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, 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

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THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-14**

Z.C. Case No. 04-14

**Second-Stage Planned Unit Development and Related Zoning Map Amendment for
Florida Rock Properties, Inc. – 100 Potomac Avenue, S.E.**

May 22, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on March 20, 2008, to consider applications from Florida Rock Properties, Inc. (“Applicant”) for second-stage approval of a planned unit development (“PUD”) and a related map amendment to the C-3-C Zone District. The Commission considered the applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Applications, Parties, and Hearings

1. On May 21, 2004, the Applicant filed applications for second-stage review and approval of a PUD and related map amendment to the C-3-C Zone District approved in the first-stage PUD approval (the “May 2004 Application”). The subject property is located in the 100 block of Potomac Avenue, S.E., bounded by Potomac Avenue along its northwestern edge, a portion of the former right-of-way of First Street, S.E. to the east, the Anacostia River to the southeast and south, and the Frederick Douglass Memorial Bridge and the bridge’s approaches to the west and southwest (the “PUD Site”). The PUD Site consists of approximately 253,500 square feet of land in Squares 707 (Lots 800, 801, and 802), 708 (Lot 809), 708E (Lots 807 and 808), and 708S (Lot 806).
2. At its July 12, 2004, public meeting, the Commission considered the May 2004 Application for set-down. The Commission identified several matters related to the proposed project on which additional information was needed. On August 26, 2004, the Applicant filed a Supplemental PUD Submission providing this additional information.
3. At its September 13, 2004, public meeting, the Commission set the case down for hearing. In anticipation of a hearing scheduled for December 8, 2005, the Applicant filed

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a Prehearing Submission on May 2, 2005, and a Supplemental Prehearing Submission on November 18, 2005.

4. Prior to the hearing, the District announced that a new Ballpark would be constructed immediately across Potomac Avenue from the PUD Site. Plans were also underway to reconstruct South Capitol Street, including the intersection of South Capitol Street and Potomac Avenue, S.E., and to replace and realign the Frederick Douglass Memorial Bridge. In light of various area-wide planning issues, the Applicant agreed to a request by the Anacostia Waterfront Corporation ("AWC") to postpone the scheduled hearing.
5. During an eight-month postponement, the Applicant worked with AWC, the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), and the D.C. Sports and Entertainment Commission to craft modifications to the originally proposed PUD to respond to changes in the surrounding area. The revised project was set forth in the Applicant's Modified Prehearing Submission filed with the Commission on August 25, 2006 (the May 2004 Application, as modified or supplemented by the Supplemental PUD Submission, Prehearing Submission, the Supplemental Prehearing Submission, and the Modified Prehearing Submission, collectively the "Modified PUD Submissions").
6. After proper notice, the Commission held a public hearing on the Modified PUD Submissions on September 18, 2006. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the PUD Site is located.
7. At the conclusion of the public hearing on September 18, 2006, the Commission requested that several matters be further reviewed and addressed in a post-hearing submission by the Applicant. The Applicant submitted materials on November 17, 2006 in response to those matters of inquiry. The Commission held a further public hearing on November 27, 2006, for the purpose of asking questions related to the post-hearing materials submittal. The Applicant made three additional submittals for the record arising out of the November 27th hearing; those submittals were made on December 11, 2006 (the Supplemental Post-hearing Submission, with the Modified PUD Submissions, as otherwise modified or supplemented, being the "Modified Revised Applications").
8. At its public meeting held on February 22, 2007, the Commission discussed several issues of concern in the Modified Revised Applications and requested that the Applicant submit revised plans to address those concerns.
9. By letter dated March 2, 2007, the Applicant requested clarification from the Commission. At its regular meeting on March 12, 2007, the Commission confirmed that the Applicant's letter correctly summarized the Commission's primary concerns, which included the following:

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- a. The footprint of the east end of the proposed East Office Building, as revised before the November, 2006, hearing, did not satisfactorily recognize the location and nature of the grand stair of the Ballpark to the north and the view corridor from that grand stair to the river;
 - b. The continued recognition in the site plan of the legacy of Half Street through the project to the river was no longer necessary;
 - c. The proposed project lacked the right “civic character” and a greater presence of residential uses, preferably apartment units, would be more appropriate;
 - d. The proposed project lacked a “sense of place” or defining elements, notwithstanding its unique location adjacent to the Ballpark and its frontage on the Anacostia River; and
 - e. The proposed project amenity of a viewing pier extending into the Anacostia River was not a necessary or contributing element to the project.
10. By correspondence dated June 1, 2007, the Applicant submitted a modified site plan for the project that proposed changes in use allocation, density, and building heights responsive to the Commission’s concerns. The Commission commented favorably on the modified plan and requested that the Applicant submit a revised PUD application.
 11. On September 21, 2007, the Applicant filed a revised application, which was further supplemented on November 8, 2007. The Commission set the Final PUD Application (collectively, the September 2007, November 2007, and February 2008 submissions) for hearing at its public meeting on November 19, 2007. On February 28, 2008, the Applicant submitted its Supplemental Prehearing Submission in advance of the hearing.
 12. After proper notice, the Commission held a public hearing on the Final PUD Application on March 20, 2008. The parties to the case were the Applicant and ANC 6D.
 13. The Applicant presented three witnesses in its direct presentation, David deVilliers of Florida Rock Properties, Inc.; Davis Buckley, architect with the firm of Davis Buckley Architects and Planners; and Steven Sher, Land Planner with Holland & Knight. Messrs. Buckley and Sher were accepted as experts in their respective fields. Additional expert witnesses answered questions and were accepted as experts in their designated fields, including Ray Kaskey, expert in sculpture, and Jon Eisen, expert in retail development and retail planning.
 14. At the conclusion of the hearing, the Commission took proposed action to approve the Final PUD Application. The Commission requested additional information regarding two specific issues – a revised design for the South Capitol Street façade of the Hotel

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Building and information regarding the structural design aspects of the Potomac and Capitol Quay.

15. The Applicant submitted its Post-Hearing Submission on May 1, 2008, presenting a revised design for the Hotel Building's South Capitol Street façade and summarizing an example of a structural design similar to the proposed design of the Potomac and Capitol Quay.
16. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by delegated action dated April 25, 2008, found that the project would not be inconsistent with the Comprehensive Plan for the National Capital or adversely affect any other federal interests.
17. The Commission took final action by a vote of 5-0-0 to approve the Final PUD Application at its special public meeting held on May 22, 2008.

Procedural History

18. In 1998, the Commission reviewed and approved a first-stage PUD application and related zoning map amendment for the PUD Site in Case No. 95-16P, as reflected in Order No. 850. In that case, the Commission approved a development plan which included a maximum height of 130 feet with a maximum density of 6.0 floor area ratio ("FAR") to be devoted to commercial and retail uses, and approved a related zoning map amendment for the PUD Site to the C-3-C Zone District.
19. By Order No. 910, dated November 8, 1999, the Commission granted second-stage approval for a PUD, allowing approximately 1.5 million square feet of commercial development in two buildings, with heights of 110 and 130 feet, constructed above a single below-grade, off-street parking facility.
20. On November 9, 2001, the Applicant timely filed a request for extension of the second-stage PUD approval, which was due to expire on November 26, 2001. In Order No. 910-A, dated May 13, 2002, the Commission denied the Applicant's request for a time extension due to a concern that the approved second-stage PUD would be in conflict with planning efforts for the near Southeast and Southwest areas, including Buzzard Point.
21. On December 2, 2002, the Applicant filed a motion for reconsideration of the Commission's decision to deny the time extension. In the motion, the Applicant asserted that the Commission had erred in denying the time extension, but also put forth a set of design guidelines, developed in consultation with OP, which would set the parameters for any second-stage PUD proposal that the Applicant could submit to the Commission for second-stage review and approval. The design guidelines changed the proposed program for the project, reducing the maximum heights of buildings, reducing the permitted

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density, increasing the width of the Waterfront Esplanade along the Anacostia River waterfront, and introducing additional access to the waterfront from Potomac Avenue, which reduced the perceived massing of the project. Additionally, the Applicant proposed to change the project from one containing retail and office uses only to one containing a mix of residential, hotel, office, retail, and commercial uses. OP filed a report with the Commission supporting the Applicant's request.

22. At its January 13, 2003 meeting, the Commission voted not to reconsider its denial of the time extension for the second-stage approval of the PUD, but agreed to reconsider its previous denial of a time extension related to the first-stage approval of the PUD. The Commission expressed concern about the building height permitted under the proposed design guidelines offered by the Applicant, indicating that lesser heights would be preferable. On February 14, 2003, the Applicant submitted revised design guidelines, which proposed lesser heights of buildings and resulting changes in gross floor area calculations.
23. On February 24, 2003, the Commission voted to grant a time extension of the first-stage approval of the PUD for one year, subject to and as modified by the OP-endorsed revised design guidelines. This approval was set forth in Order No. 910-B and the design guidelines ("Design Guidelines") were attached thereto and made part of that order.

PUD Site and Area

24. The PUD Site is situated in Ward 6 and consists of approximately 253,500 square feet of land with approximately 827 linear feet of frontage along the Anacostia River. The PUD Site is currently used for concrete mixing and batching operations and for the open storage of gravel and other stone aggregates used in these operations.
25. Based on the Comprehensive Plan in effect at the time the May 2004 Application was filed, the Generalized Land Use Map of the Comprehensive Plan designated the PUD Site and surrounding area as mixed use for medium-high density commercial, production and technical employment, and high-density residential. It also designated the PUD Site within a development opportunity area and within the Central Employment Area. Prior to the submission of the Final PUD Application, the Comprehensive Plan of 2006 went into effect. Under this plan, the PUD Site was designated by the Future Land Use Map in the mixed-use medium-density residential/medium-density commercial category.
26. The PUD Site is not a designated historic landmark nor is it within a historic district.
27. Developments in the immediate vicinity of the PUD Site include the Ballpark, immediately to the north of the PUD Site, and, to the east, a mixed-use project, the Southeast Federal Center, that includes the recently completed Department of Transportation headquarters.

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28. DDOT has begun the reconstruction of South Capitol Street, including construction of an oval ("South Capitol Street Oval") at the intersection of South Capitol Street and Potomac Avenue, and relocation of the bridge on a southern alignment at South Capitol Street.
29. The boundaries of the PUD Site assume a land exchange with DDOT. Construction of the South Capitol Street Oval requires acquisition of a portion of the PUD Site by the District. DDOT and the Applicant reached a preliminary agreement for a land exchange in the future. (See Tab B to the Applicant's Modified Supplemental Prehearing Submission, Exhibit 31, and DDOT's Supplemental Report, dated November 27, 2006, Exhibit 52.) The land exchange would create a more uniform property line between DDOT holdings and the PUD Site and would regularize the shape of the resulting land parcels held by each. The land exchange would not alter the total lot area of the PUD Site.

Existing and Proposed Zoning

30. In 1958, the PUD Site and the area immediately to the east, south, and west were designated in the M Zone District. The M and C-M-2 Zone Districts were also mapped in the surrounding area.
31. By Order No. 850, the Commission approved a PUD-related map amendment for the PUD Site to the C-3-C Zone District in connection with the first-stage approval.
32. By Order No. 971, the area surrounding the PUD Site was included within the Capitol Gateway Overlay District, with accompanying rezoning to the underlying base zone. The overlay designated specific areas for mixed-use redevelopment, as identified in the Comprehensive Plan. In addition to restrictions on use, density, and height, many properties included within the Capital Gateway Overlay District were made subject to a development review process. Absent a PUD-related map amendment, the PUD Site would be zoned CG/W-2.
33. The Final PUD Application includes a PUD-related map amendment to C-3-C. The C-3 Zone District is designed to accommodate important sub-centers supplementary to the Central Business District. The C-3-C Zone District permits medium-high density development, including office, retail, housing, and mixed-use development which is compact in area. The C-3-C Zone District permits a maximum height of 90 feet, with no limit on the number of stories, and a maximum density of 6.5 FAR. Under the PUD guidelines for the C-3-C Zone District, the maximum height may be 130 feet and the maximum density may be 8.0 FAR. The Applicant proposed to develop a project within these development parameters, having a maximum density of 4.4 FAR and a maximum height of 130 feet, generally consistent with the Design Guidelines.

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The PUD Project

34. The Final PUD Application proposed the construction of a mixed-use project of office, retail, residential, and hotel uses on the PUD Site. The project will be developed as four separate buildings situated to create multiple vistas and views to and from the Anacostia River and the Ballpark.
35. The east end of the PUD Site will be developed with an office building with ground-floor retail (the "East Office Building"). The East Office Building will have a maximum height of 92 feet, and will be sited to respect the view corridors from the Ballpark's grand staircase. Adjacent to the East Office Building will be an apartment building with ground-floor retail (the "Residential Building"). The Residential Building will have a maximum height of 130 feet. The East Office Building and the Residential Building will be linked together by the Potomac Quay, a glass-enclosed retail galleria extending from Potomac Avenue to the waterfront. A second office building with ground-floor retail will turn the corner at the intersection of Potomac Avenue, S.E., and South Capitol Street, S.E. (the "West Office Building"). The West Office Building will have a maximum height of 112 feet. To the south of the West Office Building and connected by a glass-enclosed Capitol Quay, a hotel will be constructed (the "Hotel Building"). The Hotel Building, with a maximum height of 130 feet, will have hotel-related retail uses on the ground floor and residential uses located on the top two floors.
36. The project will include a total of 1,115,400 square feet of gross floor area, or a maximum of 4.4 FAR. The PUD will include 569,623 square feet of gross floor area devoted to residential and hotel uses, or 2.25 FAR. The PUD will also include 545,777 square feet of gross floor area, or 2.15 FAR, devoted to commercial uses, including a minimum of 80,000 square feet of gross floor area devoted to retail use.
37. The project will incorporate two open civic spaces: Anacostia Place at the east end and Cascade Plaza at the western end. Each space will provide direct access to a terraced and landscaped waterfront esplanade (the "Esplanade"), which will extend for the full length of the project's frontage on the Anacostia River.
38. Anacostia Place will provide for the free flow of pedestrians from the Ballpark's grand staircase and from First Street through and to both the Esplanade and to Diamond Teague Park. This space will feature a monumental fountain/sculpture that will celebrate the heritage of the Anacostia River by featuring representations of wildlife, flora and fauna of the river in its original state. The artwork centerpiece will be surrounded by three seasonal sculptural fabric structures serving as potential vendor pavilions and shade structures. The design and plantings for Anacostia Place have been coordinated with the Office of the Deputy Mayor for Planning and Economic Development ("DMPED") and its developing plans for Diamond Teague Park, immediately east of Anacostia Place.

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39. The Cascade Plaza will be the center of civic activity on the western portion of the PUD Site, serving as a focal, organizing civic space as well as the entryway to the Residential Building, West Office Building, and Hotel Building. The Cascade Plaza will provide vehicular access for the three buildings, giving them an "address" on the Plaza. The central portion of the space will have a landscaped water sculpture with water pools and plant materials. In addition to the center water oval component, the Cascade Plaza will include a cascading water stair between the two staircases linking the Cascade Plaza to the Esplanade and the river. The cascade water elements as well as the center water oval component will be elements of the overall biofiltration program for the project while providing an aesthetic focal point for the uses that surround the plaza.
40. The project will incorporate a bike path along the waterfront, with special paving, two directional lanes with a divider strip and reflectors, and light bollards to visually define the path where the bike path traverses the pedestrian zones. The bike path will ultimately connect to the trail to the southwest and east of the PUD Site.
41. The design of the project as presented in the Final PUD Application was substantially modified throughout the PUD process as a result of discussions with OP, DDOT, DMPED, and the community. The resulting project responded to the surrounding contextual determinants, including celebrating its waterfront location, being a fitting complement to the Ballpark and providing an important façade for the future South Capitol Street Oval.

East Office Building

42. The Commission noted its concern regarding the footprint of the east end of the East Office Building, especially in its relationship to the grand stair of the Ballpark and the impact on the view corridor from that grand stair to the river. In the Final PUD Application, a curved building line for the East Office Building was introduced along Potomac Avenue and the orientation of the East Office Building was rotated slightly off-line with the Potomac Avenue right-of-way line. These two changes brought the west end of the planned East Office Building closer to the river on its south side. This re-orientation eliminated any vestige of Half Street, and instead recognized the importance of the Potomac Avenue right-of-way.
43. The view corridors created at the Potomac Quay and at the lane leading to the Cascade Plaza to the west of the Residential Building will further eliminate the earlier Half Street viewshed. The re-aligned East Office Building will respond to and emphasize the view corridors and access points through the project when approached from the grand staircase of the Ballpark along Potomac Avenue, as well as from the entrance of the Ballpark at the intersection of Potomac Avenue and South Capitol Street. This orientation, along with the sculptural elements of the designs of the East Office Building and the Residential Building, will create a complementary relationship between the Potomac Avenue façades of the project and the design of the Ballpark.

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44. In its report, OP noted that the proposed location of the East Office Building was moved to the west to improve views from the south entrance of the Ballpark. OP further noted that the overall form and massing of the buildings along Potomac Avenue were improved, resulting in more interesting and varied spaces and a better relationship to the form of the Ballpark.
45. The Commission finds that the proposed design and siting will create a project that will achieve the desired goals for this important location. The design of the eastern end of the project – including the siting of the East Office Building and the design for Anacostia Place – will preserve the view corridors for visitors to the Ballpark, complement the designs for Diamond Teague Park, create a welcoming civic space, and link the Ballpark to the waterfront. The East Office Building will introduce a dynamic waterfront and retail/entertainment experience that will be further enhanced as later phases of the project are developed.

Legacy of Half Street

46. The continued recognition of the legacy of Half Street through the project to the River was not necessary. The Final PUD Application deleted the perceived extension of Half Street by rotating the façade of the Residential Building so that a centerline axis through the tower would be generally perpendicular to Potomac Avenue rather than following the alignment of the former Half Street right of way. This design element will open up a view corridor to and from the Ballpark and the river between the Residential Building and the West Office Building.
47. The Commission finds that the site plan of the project as set forth in the Final PUD Application is appropriate for the PUD Site and will create important view corridors and interesting façades.

Mix of Uses

48. While a density of 4.4 FAR was appropriate for the PUD Site, the Commission noted a preference for a mix of uses including increased gross floor area for apartments. The Final PUD Application incorporated an increase in gross floor area devoted to residential uses by increasing the height of both the Residential Building and the Hotel Building to 130 feet. All the additional gross floor area resulting from the increased height will be devoted to apartments (either for rent or sale). As a result, the project will include approximately 323,433 square feet of gross floor area devoted to apartments. The density of residential use – including the gross floor area devoted to apartments and the hotel use deemed residential for the PUD Site – will be 2.25 FAR, or more than 50% of the proposed gross floor area of the project as a whole.
49. The Commission finds that the mix of uses – including the increased residential use and the commitment to a minimum of 80,000 square feet of retail space – will create day and

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night traffic and lend **vibrancy** to the project and the area south of the Ballpark. The Commission further finds that the use of increased height to achieve the additional residential use is appropriate and will add aesthetic interest to the roof line of the project.

Creation of Civic Spaces

50. The Commission noted concerns that planned civic spaces were not influential in the project. The Final PUD Application incorporated significant and well-proportioned open, civic spaces, where the Applicant's proposal to increase the planned open spaces was a result of the increased height for both the Residential Building and the Hotel Building. In addition to the Esplanade, the two primary open, civic spaces will include Anacostia Place and the Cascade Plaza, which are intended to attract the public and bring vibrancy and activity to the project. The project will also incorporate two publicly accessible covered spaces, the Potomac Quay and the Capitol Quay, which will link the project and waterfront and the South Capitol Street Oval.
51. OP noted in its report that the project will incorporate a variety of open spaces – both visually open but physically enclosed spaces, such as the Potomac Quay and the Capitol Quay, as well as open spaces, including the Esplanade, with segregated walking and biking trails, green space, and space for outdoor patios associated with adjacent retail uses, the Cascade Plaza, and the Anacostia Place.
52. The Commission finds that creation of a variety of civic spaces is a superior aspect of the project.

Sense of Place

53. The Commission noted that the project as previously conceived lacked a sense of place. In the Final PUD Application, the Applicant presented a project defined through its unique location in the near Southeast. A sense of place will be achieved through the creation of new public spaces, as well as through the enhancement to previously proposed public spaces, such as the Esplanade. The public spaces will enhance the project and complement adjacent public spaces, such as Diamond Teague Park.
54. The project's more fully developed retail vision will also create a sense of place for the project. The Applicant set forth a detailed retail merchandising plan, prepared by StreetSense and found at Tab A in the Revised PUD Submission (Exhibit 67), intended to enliven the Anacostia Riverfront with a mix of visible and accessible retail, restaurant, entertainment, and other activity-generating uses.
55. The project will also create a sense of place by its design complementary to the adjacent Ballpark. The project will provide visual and physical transparency between the Ballpark neighborhood to the north and the Anacostia River to the south, including wide use of

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non-reflective glass, curved and carefully oriented building forms, and inviting pedestrian links including the open civic spaces, the through-building connections to the river, and the Esplanade.

56. The Commission finds that the project will achieve the goal of creating a sense of place through a variety of elements, including its civic spaces, retail vision, enhanced residential component, architectural treatment, and festive waterfront experience.

Elimination of Viewing Pier

57. The Commission commented that a proposed project amenity viewing pier extending into the Anacostia River was not a necessary or contributing element to the project. The Commission concurs with the Applicant's proposal, made in the Final PUD Application, to eliminate the viewing pier and to incorporate the funds previously allocated to the viewing pier amenity instead into a proposed contribution to the District for application to Diamond Teague Park.

Phasing of Project

58. The project was proposed to be constructed in four phases, as shown on the phasing plans (Exhibit 82):
- a. Phase One will include the East Office Building, Anacostia Place, and the adjacent portion of the Esplanade;
 - b. Phase Two will include the Residential Building, the Potomac Quay, and the adjacent portion of the Esplanade;
 - c. Phase Three will include the West Office Building, the Cascade Plaza, and the remainder of the Esplanade; and
 - d. Phase Four will include the Hotel Building and the Capitol Quay.
59. The Applicant must file for a building permit for Phase One of the project as specified in 11 DCMR § 2409.1. Construction of Phase One must begin within three years of the effective date of this Order. Within two years of the issuance of a certificate of occupancy for Phase One, the Applicant must file an application for a building permit for Phase Two, and construction of Phase Two must begin within three years of the issuance of a certificate of occupancy for Phase One.
60. Construction of Phases Three and Four cannot commence until the final realignment of the Frederick Douglass bridge and the land exchange with the District are completed for the South Capitol Street Oval. Therefore, the timeframe for the construction of these two phases must be tied to these two District transportation projects. Based on preliminary

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estimate dates for the construction of these District transportation projects, construction of Phase Three is estimated to commence in 2013 and construction of Phase Four is estimated to commence in 2016.

61. The Commission finds that the phasing of the project is appropriate and the timing for construction of the project in these phases is appropriate, as set forth in Condition 15.

Public Benefits and Project Amenities

62. The project incorporates the following public benefits and project amenities:

- a. *Housing and Affordable Housing (§ 2403.9(f))*. The Applicant committed to the construction of 323,433 square feet of gross floor area devoted to apartment units. The Applicant agreed to reserve approximately 29,000 square feet of gross floor area of the residential development for workforce housing, meaning housing available to households making a maximum of 80% of Area Median Income in the District of Columbia. The workforce housing will be implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits (Exhibit 94).
- b. *Landscaping or Creation or Preservation of Open Spaces (§ 2403.9(a))*. The project will incorporate an esplanade that will extend for approximately 719 linear feet along the Anacostia River, not less than 75 feet in depth, with limited projections above and into the air space of the esplanade by the Residential and Hotel Buildings. The Esplanade will be accessed by pedestrians from Anacostia Place, the Potomac Quay, the Cascade Plaza, and the Capitol Quay and will enable the creation of an attractive waterfront experience. The design of the Esplanade will incorporate biofiltration elements providing environmental benefits. The Applicant agreed to contribute \$800,000 to the District for construction and on-going maintenance of the Diamond Teague Park. The Commission finds that this contribution of funds is appropriate and sufficient to warrant treatment as a recognized public benefit of the PUD.
- c. *Environmental Benefits (§ 2403.9(h))*. The Applicant committed to develop a sustainable design for the project, including a biofiltration plan to manage stormwater run-off. The Applicant also agreed to develop the project with the goal of achieving at least U.S. Green Building Council LEED certification for each phase of the project. The Applicant agreed that, if it was unable to achieve certification prior to issuance of a certificate of occupancy for each phase of the project, the Applicant will post a bond, letter of credit, escrow account, or other similar security ("Security") prior to the issuance of a certificate of occupancy, in an amount equal to one percent of the construction cost for that phase of the project, as identified on the building permit application. When the applicable phase of the project achieved LEED certification, the Security would be released

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to the Applicant. In the event that the Applicant did not achieve LEED certification for that phase of the project at the later of 30 months after the date of a certificate of occupancy for that phase or the date that the U.S. Green Building Council determined the building would not obtain certification for that phase, the Security would be released to the District in accordance with applicable laws.

- d. *Transportation Management Measures (§ 2403.9(c)).* The Applicant agreed to implement a transportation management program intended to provide services and incentives to increase the efficiency of the roadway network without adding additional capacity. Elements of the transportation management program include a transportation coordinator, coordination of carpools and vanpools, encouragement of flexible work hours, and parking management. The project will also include a below-grade loading dock that will permit a majority of loading activities to take place on-site and not visible from Potomac Avenue. To manage the loading area, the transportation management program included a truck management plan. (See Tab 3 to the Summary of Amenities and Benefits – Exhibit 94.)
- e. *Employment and Training Opportunities (§ 2403.9(e)).* The Applicant entered into a First Source Employment Agreement with the Department of Employment Services (“DOES” requiring the Applicant to use DOES as its first source to fill all new jobs created as a result of construction of the project. The Applicant will seek to have at least 51% of these newly created jobs, and at least 51% of the apprentices and trainees positions, filled by District residents. The Applicant also renewed its offer of a supplemental program related to job opportunities that was incorporated into the originally approved PUD. This amenity will be implemented throughout each phase of the project. The Applicant committed to make a bona fide effort to utilize Local, Small, or Disadvantaged Business Enterprises (“LSDBE”) (now called Certified Business Enterprises (“CBE”)) certified by the D.C. Department of Small and Local Business Development (“DSLBD”) to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with design, development, construction, maintenance, and security of the project. This amenity will be implemented throughout each phase of the project.
63. Pursuant to § 2403.10, the Commission finds that the project qualifies for approval by being acceptable in all proffered categories of public benefits and project amenities, and superior with respect to housing, affordable housing, and environmental benefits.

Development Flexibility and Incentives

64. The Applicant requested the following areas of flexibility from the C-3-C PUD standard and the Design Guidelines:

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- a. *Height Established by Design Guidelines.* The Design Guidelines stated that the maximum heights of the buildings in the project would be 90, 100, and 110 feet. In order to provide more attractive retail space, the Applicant requested an increase by two feet from the maximum heights for the East Office Building and the West Office Building to provide for 14-foot ceiling heights for the retail spaces on the ground floor. The resulting maximum heights will be 92 feet and 112 feet, respectively. The Applicant also requested increases in height for the Residential Building and the Hotel Building from 100 feet and 110 feet respectively, to 130 feet. This increased height will allow the project to provide additional gross floor area for apartments, increased open space, and greater ceiling heights for the retail spaces. This maximum height is permitted for a PUD in the C-3-C Zone District. The Commission finds that the increased heights are warranted to achieve important goals of the project.
- b. *Loading.* Due to the multiple uses on the PUD site, the loading requirement would be two loading berths at 55 feet, 14 loading berths at 30 feet, and eight service-delivery spaces. The project will provide two loading berths at 55 feet, 12 loading berths at 30 feet, and eight service-delivery spaces. The loading areas will be located primarily within a below-grade loading facility and will be operated consistent with the Applicant's truck management plan. The Commission finds that the proposed loading will be sufficient for the proposed mix of uses in the PUD.
- c. *75-Foot Setback.* The Design Guidelines required a minimum setback of 75 feet. While the project will comply with this requirement at the ground level, the Residential Building and the Hotel Building will include projections of 25 feet at the second floor and above. The projections will maintain a minimum setback of 50 feet. The Commission finds that the projections into the setback will result in a varied and interesting façade at the upper levels of the affected buildings, and are appropriate for the project.

Compliance with PUD Standards

65. The Final PUD Application complies with the standards for a PUD set forth in Chapter 24 of the Zoning Regulations. The Commission finds that the project offers a sufficient level of public benefits and project amenities in proportion to the flexibility and incentives requested by the Applicant.
66. The PUD Site area is approximately 253,500 square feet of land, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the C-3-C Zone District, in accordance with § 2401.1(c) of the Zoning Regulations.
67. The project has been evaluated under the PUD guidelines for the C-3-C Zone District. The project will be in compliance with the height and density permitted for a PUD in the

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C-3-C Zone District. The project has been evaluated under the Design Guidelines and is generally in compliance with those standards.

68. The project will have no adverse impact on the surrounding area. The existing water and sewer services are adequate to serve this facility.
69. By virtue of the extension of the First-Stage PUD approval in Order No. 910-B, the Commission found that the first-stage approval, as modified by the Design Guidelines, was not inconsistent with the Comprehensive Plan. The Commission reaffirms that conclusion. The Commission credits the testimony of OP and of the Applicant's expert in finding that the project will not be inconsistent with and will further the District-wide elements of the Comprehensive Plan, the Lower Anacostia Waterfront/Near Southwest Area element, and the Future Land Use Map adopted as part of the Comprehensive Plan of 2006.

Office of Planning

70. By report dated March 10, 2008, OP recommended approval of the Final PUD Application subject to the following conditions: (a) concurrence of DMPED regarding the proposal to contribute \$800,000 for the construction of Diamond Teague Park; (b) additional detail regarding the Applicant's CBE commitment and supplemental employment and skills training plan; (c) DDOT approval of the proffered traffic management plan; and (d) further review of the fountain design in Anacostia Place. In its testimony at the public hearing, OP noted that the first three conditions were resolved by materials submitted by the Applicant in its Summary of Amenities and Benefits (Exhibit 94), which included a letter from DMPED (Tab 2) that indicated DMPED's willingness to accept a contribution for Diamond Teague Park; the executed First Source Employment Agreement with the Department of Employment Services, including information regarding the supplemental employment and skills program (Tab 4) and the executed agreement for utilization of CBEs (Tab 5); and a detailed transportation management program, including a truck management plan (Tab 3).
71. OP concluded that the project was not inconsistent with, or would further, the Comprehensive Plan of 2006, noting that the project was not inconsistent with the objectives and action items within the District-wide elements of the Comprehensive Plan, particularly those related to the provision of more housing, retail and job opportunities, better connectivity to the waterfront, and new open space. The project also would further the objectives and action items contained in the Lower Anacostia Waterfront/Near Southeast Area element (Chapter 19).
72. The Commission notes that OP raised questions about the design of the fountain in Anacostia Place, but finds that the proposed fountain design will be appropriate to anchor the open, civic space.

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District Department of Transportation

73. DDOT did not comment on the Final PUD Application, but in a report dated September 14, 2006 (Exhibit 38) and through its testimony at the hearing, DDOT recommended approval of the Modified Revised Applications, conditioned on the resolution of issues relating to vehicular site access, bike and pedestrian connections along the Esplanade, its water taxi dock proposal, and coordination with adjacent infrastructure projects. Following discussions with the Applicant, DDOT submitted a supplemental report, dated November 27, 2006 (Exhibit 52), in which DDOT concluded that the Applicant had successfully addressed DDOT's concerns.

ANC 6D Report and Testimony

74. By letter dated March 17, 2008, ANC 6D indicated that it voted 5-2 at its January 14, 2008, duly noticed public meeting, to support the Final PUD Application (Exhibit 90). ANC 6D reaffirmed its support for the application, commenting favorably on the new design and layout of the project. According to ANC 6D, the PUD will be a high quality, thoughtful development that will provide a lively destination and will be an asset to the Southwest/Near Southeast community.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (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 second-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, yards, or courts.
3. The development of this project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

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5. The PUD is within the applicable height, bulk, and density standards of the Zoning Regulations. The project complies in all material respects with the Design Guidelines, with the exception of additional height. The size, scale, design, and use of the project are appropriate for the PUD Site and for the general Ballpark district. The impact of the project on the surrounding area is not unacceptable. Accordingly, the Final PUD Application should be approved.
6. The Final PUD Application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
7. The number and quality of the project benefits and amenities offered are sufficient for the flexibility and development incentives requested.
8. Approval of the Final PUD Application is appropriate because the project is consistent with the proposed future character of the area.
9. Approval of the Final PUD Application is not inconsistent with the Comprehensive Plan.
10. The Commission is required under D.C. Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised by the affected ANC. The Commission has carefully considered ANC 6D's support of the project and concurs in its recommendation.
11. The approval of the Final PUD Application will promote the orderly development of the PUD Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
12. The rezoning of the PUD Site to the C-3-C Zone District is consistent with the purposes and objectives of zoning as set forth in the Zoning Enabling Act, § 6-641.01 of the D.C. Code.
13. Notice was provided in accordance with the Zoning Regulations and applicable case law.
14. The Final PUD Application is subject to compliance with the provisions of the D.C. Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 *et seq.*).
15. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP's recommendations. For the reasons stated above, the Commission concurs in OP's recommendation for approval.

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16. Pursuant to 11 DCMR § 2608.2, all other provisions of Chapter 26 of the Zoning Regulations (Title 11 DCMR), Inclusionary Zoning, do not apply to this application because it was set down for hearing prior to March 14, 2008.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Final PUD Application for the second-stage review of a planned unit development under the C-3-C Zone District. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by Davis Buckley Architects and Planners, dated February 28, 2008, in the record at Exhibit 83, as supplemented by the plans dated May 1, 2008, in the record at Exhibit 100 (collectively the "Plans") as modified by the guidelines, conditions, and standards herein.
2. The PUD shall be a mixed-use project, containing a maximum of 1,115,400 square feet of gross floor area, or 4.4 FAR. The PUD shall include at least 569,623 square feet of gross floor area devoted to residential and hotel uses, or 2.25 FAR, including at least 29,000 square feet devoted to housing affordable to households earning a maximum of 80% of Area Median Income. The PUD shall include a maximum of 545,777 square feet of gross floor area, or 2.15 FAR, devoted to commercial uses, including office and retail and service uses. A minimum of 80,000 square feet of gross floor area shall be devoted to retail and service uses.
3. The East Office Building shall have a maximum height of 92 feet. The Residential Building shall have a maximum height of 130 feet. The West Office Building shall have a maximum height of 112 feet. The Hotel Building shall have maximum height of 130 feet.
4. The Applicant shall construct and landscape the open spaces, including the Esplanade, the Cascade Plaza, and Anacostia Place, generally as shown on the Plans.
5. The project shall include a minimum of 1,010 parking spaces in the below-grade parking garage.
6. The project shall provide loading as shown on the Plans. Use of the loading facilities shall be subject to the truck management program set forth in Tab 3 to the Summary of Amenities and Benefits (Exhibit 94).
7. The Applicant shall implement a transportation management plan that shall integrate strategies to reduce single-occupant vehicular trips and promote alternative modes of travel. The transportation management program shall be as set forth in Tab 3 to the Summary of Amenities and Benefits (Exhibit 94).

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8. The Applicant shall make a payment in the total amount of \$800,000 to the District for construction, installation, and/or on-going maintenance of the adjacent Diamond Teague Park. The Applicant's contribution shall be made in one payment to the District no later than 60 days after the date this Order is published in the *D.C. Register*, or at a later date as determined by the Deputy Mayor for Planning and Economic Development, or his designee
9. The Applicant shall reserve a minimum of 29,000 square feet of gross floor area in the Residential Building devoted to workforce housing implemented in accordance with the Workforce Housing Program, attached as Tab 1 to the Summary of Amenities and Benefits (Exhibit 94).
10. The project shall obtain LEED certification for each phase of the project. In the event that the Applicant is unable to achieve LEED certification prior to the issuance of a certificate of occupancy for each phase of the project, the Applicant shall post a bond, letter of credit, escrow account, or other similar security ("Security") prior to the issuance of a certificate of occupancy for that phase, in an amount equal to one percent (1%) of the construction cost for that phase of the project shown on the building permit application. When the applicable phase of the project achieves LEED certification, the Security shall be released to the Applicant. In the event that the Applicant does not achieve LEED certification for that phase of the project at the later of 30 months after the date of a certificate of occupancy for that phase or the date that the US Green Building Council determines the building will not obtain certification for that phase, the Security shall be released to the District, in accordance with then applicable laws of the District.
11. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Department of Small and Local Business Development attached as Tab 5 to the Summary of Amenities and Benefits (Exhibit 94) to achieve the target goal of 35% participation by Certified Business Enterprises in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project.
12. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services, attached as Tab 4 to the Summary of Amenities and Benefits (Exhibit 94), to achieve the goal of utilizing District of Columbia residents for at least 51% of the new jobs created by the PUD project. The Applicant shall also abide by the Employment and Skills Training Plan made part of that agreement, also attached as Tab 4 to the Summary of Amenities and Benefits (Exhibit 94).
13. 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, atrium and mechanical

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- rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
- b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, without a reduction in quality, based on availability at the time of construction;
 - c. To vary the location of storefront entrances to the retail spaces as determined by leasing considerations and needs of individual tenants;
 - d. To vary the landscaping and bike paths of the Esplanade to coordinate with development of adjacent parcels;
 - e. To refine the sculptural centerpiece of Anacostia Place and make adjustments to its size and design so long as it maintains the same general character as shown in the Plans;
 - f. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other changes to comply with the District of Columbia Construction Codes or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
 - g. To make refinements to the garage configuration, including layout, number of parking spaces and/or other elements, as long as the project includes a minimum of 1,010 parking spaces; and
 - h. To incorporate such items of final engineering design into the final design of the streetscape, such as, but not limited to, code and/or utility required sidewalk gratings, and access manholes and other similar cover plates for utility meters.
14. No building permit shall be issued for any building in the approved PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners(s) and the District of Columbia, that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). The covenant shall bind the Applicant and all successors in title to construct on and use the PUD Site in accordance with this Order or amendment thereof by the Zoning Commission.
15. The PUD approved by the Zoning 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 for Phase One as specified in 11 DCMR § 2409.1. Construction of Phase One shall begin within three years of the effective date of this order. Within two years of the issuance of a certificate of occupancy for Phase One, an application must be filed for

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a building permit for Phase Two, and construction of Phase Two shall begin within three years of the issuance of a certificate of occupancy for Phase One. An application for a building permit for Phase Three shall be filed within one year after the later of the completion of the reconstruction of the Frederick Douglass bridge or the completion of the construction of the South Capitol Street Oval. Construction of Phase Three must begin within one year of the issuance of a building permit for Phase Three. Within two years of the issuance of a certificate of occupancy for Phase Three, an application must be filed for a building permit for Phase Four, and construction of Phase Four shall begin within three years of the issuance of a certificate of occupancy for Phase Three.

16. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). This Order is conditioned upon full compliance with those provisions. In accordance with the 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 that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On March 20, 2008, the Zoning Commission took proposed action to **APPROVE** the application by a vote of: **4-0-1** (Anthony J. Hood, Gregory N. Jeffries, Curtis J. Etherly, Jr. and Michael G. Turnbull to approve; Peter G. May abstaining).

At its special public meeting on May 22, 2008, the Commission took final action to **ADOPT** this Order by a vote of: **5-0-0** (Gregory N. Jeffries, Michael G. Turnbull, Anthony J. Hood, Curtis L. Etherly, Jr., and Peter G. May).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on **JUN 27 2008** .

Surveyor's Office
DISTRICT OF COLUMBIA

Plat, for Building Permit of

SQUARES 716, Washington, D. C. 07-23-1998
SQUARE 707 LOTS 800, 801, 812
SQUARES 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

Scale: 1 inch = 80 feet

S.O. 2689

Turnished to DAVIS, BUCKLEY ARCHITECTS
Surveyor, District of Columbia.
Per D.M.S.

I hereby certify that all existing improvements shown hereon, are completely discontinued, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered parking, are correctly discontinued and platted and agree with plans accompanying the application; that the foundation plan as shown hereon is shown, and discontinued accurately to the same extent as the property lines shown on this plat; and that by reason of the proposed improvements to be created as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the zoning regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the zoning regulations will be reserved in accordance with the zoning regulations, and that this area has been correctly drawn and discontinued hereon. It is further agreed that the situation of the accessible parking area with respect to the Highway Department approved curb or utility grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 15% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 15% across the public parking and the private restricted property).

Date 7/70/98
[Signature]
Commissioner of Survey or his authorized agent

NOTE: DATA SHOWN ON ASSESSMENT AND TAXATION LOTS ON PARCELS ARE PER RECORDS OF ASSESSMENT, D. C. BUT DO NOT NECESSARILY AGREE WITH DEED DESCRIPTION.

