

**BOARD OF ELECTIONS AND ETHICS**  
**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in **ten (10)** Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

**VACANT:**           **1C07**

Petition Circulation Period: **Tuesday, September 27, 2005 thru Monday, October 17, 2005**  
Petition Challenge Period: **Thursday, October 20, 2005 thru Wednesday, October 26, 2005**

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**VACANT:**           **3D07**  
                              **5C10**  
                              **6B11**  
                              **8B02, 8B03, 8C05, 8C06, 8E01, 8E06**

Petition Circulation Period: **Tuesday, October 18, 2005 thru Monday, November 7, 2005**  
Petition Challenge Period: **Thursday, November 10, 2005 thru Thursday, November 17, 2005**

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Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics**  
**441 - 4<sup>th</sup> Street, NW, Room 250N**

For more information, the public may call **727-2525**.

YEARS 2005 THRU 2007

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# REQUEST FOR GRANT APPLICATIONS

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FROM NON-PROFIT COMMUNITY-BASED ORGANIZATIONS  
TO PROVIDE FOR  
THE PURCHASE AND INSTALLATION OF ENERGY EFFICIENCY MEASURES  
IN LOW-INCOME RESIDENCES  
UNDER THE RELIABLE ENERGY TRUST FUND  
WEATHERIZATION- REHABILITATION PROGRAM

**DC ENERGY OFFICE**  
Government of the District of Columbia  
2000 14th Street NW, Suite 300 East  
Washington, DC 20009  
(202) 673-6750  
SEPTEMBER 9, 2005

**DC ENERGY OFFICE**

**June 2005 - June 2007**

**REQUEST FOR GRANT APPLICATIONS FROM NON-PROFIT COMMUNITY-BASED ORGANIZATIONS TO PROVIDE FOR THE PURCHASE AND INSTALLATION OF ENERGY CONSERVATION MEASURES IN LOW-INCOME RESIDENCES**

The DC Energy Office (DCEO) Weatherization-Rehabilitation Program (WRP) is requesting grant applications for June 2005 through June 2007 from District of Columbia tax-exempt, non-profit, community-based organizations to provide for the purchase and installation of energy conservation measures in apartment buildings and single-family homes of low-income District residences.

The WRP will be funded and governed by the D.C. Public Service Commission (PSC) Order No. 13475 governing the Reliable Energy Trust Fund (RETF) dated May 20, 2005 and any subsequent and applicable District of Columbia laws and regulations and any subsequent and applicable PSC orders. Community Based Organizations (CBOs) and Community Development Corporations (CDCs) who perform the actual work that is identified by the energy audit, will purchase and install appropriate energy measures in the homes they rehabilitate or repair. Matching contributions are encouraged. Funds available are expected to be in excess of 1.8 million dollars.

The Request for Grant Applications (RFGA) will be available beginning October 14, 2005. The RFGA will not be mailed. It will be available for pick-up (one per applicant) weekdays from 9:00 a.m. to 4:00 p.m. at the DCEO, 2000 14<sup>th</sup> Street NW, Suite 300 East.

A pre-application conference will be held at the DCEO at 10 a.m., October 18, 2005. Applications must be in the physical possession of the DCEO by 4:45 p.m., Friday, November 18, 2005.

D.C. Energy Office  
(202) 673-6750  
Government of the District of Columbia  
Anthony A. Williams, Mayor

**REQUEST FOR GRANT APPLICATIONS**

**Announcement Title:** June 2005 thru June 2007 Request for Grant Applications From Non-Profit Community-Based Organizations\* to provide for the Purchase and Installation of Energy Efficiency Measures in Low Income Residences under the Weatherization-Rehabilitation Program

**Issuance Date:** September 9, 2005

**Pre-Application Conference:** 10:00 AM, Tuesday, October 18, 2005

**Application Proposals Due in Physical Possession of the DCEO:** 4:45 PM, Friday, November 18, 2005

**Place of Performance:** Various single- and multi-family homes in the District of Columbia designated by the D.C. Energy Office

**Performance Period:** June 1, 2005 - June 30, 2007

**Contact:** William C. Fesson  
(202) 359-5464

Verbal explanations, interpretations or instructions given by a member of the DC Energy Office (DCEO) before the award of the grant will not be binding. Any information given to any prospective applicant concerning this application request will be furnished to all prospective applicants as an amendment to the application if such information is deemed necessary or the lack of such information would be prejudicial to uniformed applicants under the Weatherization Rehabilitation Program (WRP) funded under the Reliable Energy Trust Fund (RETF).

\*Certified as a non-profit 501 (c)(3) organization by the Internal Revenue Service and issued a Certificate of Exemption by the Government of the District of Columbia.

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**PART I**  
**PROGRAM DESCRIPTION**

**Chapter I: INTRODUCTION**

The DCEO requested grant applications from non-profit community-based organizations offering to provide for the purchase and installation of certain energy efficiency measures (EEMs) in single and multi-family homes of DCEO-designated low-income residents. These services are being provided under the auspices of the DCEO Weatherization-Rehabilitation Program (WRP), which is administered by the DCEO Conservation Services Division (CSD). Funding for the WRP is provided and governed by the District of Columbia Public Service Commission (PSC) Order No. 13475 Reliable Energy Trust Fund (RETF) dated May 20, 2005 and any subsequent and applicable District of Columbia laws and regulations and any subsequent and applicable PSC orders.

A primary function of the D.C. Energy Office is to help District residents cope with rising energy costs. The District of Columbia has several on-going programs to provide financial assistance to low- and moderate-income individuals to help them meet their monthly energy bills. However, the District Government is taking additional steps to help homeowners and tenants install energy efficient measures in homes and multi-family dwellings that are being repaired or rehabilitated. The primary goal is to reduce monthly energy consumption. Within the District of Columbia Government, existing energy programs which help homeowners provide reduction in fuel costs include the DCEO RCAS (Residential Conservation Assistance Services) and in-house and community energy efficiency workshops.

Although these programs have made important progress in helping to reduce energy consumption, much more needs to be done to assist those among the estimated 41,000 RCAS eligible households in the District.

In an effort to provide faster customer service, the Subgrantee must provide a complete turn-around within 45 calendar days of receipt of customer name and funds from the DCEO.

**Weatherization- Rehabilitation Program**

RCAS grants, in the form of energy efficiency measures recommended as a result of energy audits performed under the requirements of the RCAS, are provided to households living at or below 150 percent of the official poverty level.

The DCEO conservation strategies emphasize the identification of potential savings and the providing of financial incentives to install measures identified by an energy audit. One such residential energy strategy is the WRP, which provides funds to Subgrantees for the purchase and installation of weatherization materials, also referred to as "Energy Efficiency Measures" (EEMs) in residences being repaired or rehabilitated for low-income eligible District residents.

The addition of weatherization components to rehabilitation projects will cost an average of \$2,672.00 per home. RETF funds cannot be used for administrative expenses.

It is the intent of the DCEO to foster programs that present practical, cost-effective measures that can be undertaken to further the goals of conserving energy and using energy more efficiently. To this end, the DCEO has and will continue to play an expanded role in making the District of Columbia more energy efficient. The goal of the program for June 2005 through June 2007 to weatherize and rehabilitate 572 homes, depending on funding availability.

**Chapter 2: SCOPE OF WORK****2.1 Overview**

The DCEO has designed the WRP in a manner that should provide for ease in implementation.

**2.2 Services Provided under WRP****2.2.1 Energy Audits and Type Work to be Performed**

Under the WRP, the DCEO will provide energy audits. The WRP will be expanded to non-profit community-based organizations (CBOs) and community development corporations (CDCs) that are providing or will provide improvements to the homes of low-income District residents. The RETF funds will be used to add an energy efficiency component to the home improvement efforts by these selected organizations. The CBOs who perform the actual work will purchase and install appropriate energy efficiency measures in the homes they rehabilitate or repair. About 572 homes will be weatherized under this element.

DCEO will expand the Weatherization Rehabilitation Program to piggyback onto existing rehabilitation programs by non-profit organizations, and conduct audits of eligible units to determine the measures to be installed. The CBO will identify apartment buildings and single-family homes being rehabilitated. Some of the primary measures to be considered are:

**A. Air Sealing Infiltration Reduction:**

Reduction of air and heat movement between heated and unheated areas by applying such measures as caulking, foam sealant, insulation, the weatherstripping of primary doors and windows, the seal-up of baseboards, correction of leaks in HVAC duct systems, and other materials as necessary to seal penetrations through the envelope of the dwelling.

**B. Heating System Efficiency Improvements:**

HVAC systems are to be tuned up, as needed, to improve efficiency and indoor air quality. Should a dangerous health or safety condition exist as determined by a DCEO inspector with HVAC expertise, replacement rather than repair may be deemed necessary. In other cases, if age and condition of the

system warrant, replacement rather than repair will be considered via a cost/benefit analysis.

**C. Attic Insulation and Venting:**

Attics will be insulated to R-30 if existing insulation is below R-15; if existing insulation is R-16 or above, it will be the option of the auditor as to whether or not to order additional insulation. Attics that are insulated will be vented as appropriate.

**D. Insulation of Domestic Hot Water Heater (hot water pipe insulation not allowed using LIHEAP funds):**

The domestic hot water heater (if electric) will be insulated and the hot water pipes extending from the hot water heater will be wrapped (hot water pipe insulation not allowed using LIHEAP funds) for a distance from the hot water heater at least three feet.

**E. Basement, Floor and Crawlspace Insulation:**

Unheated basements will be insulated to R-19. A vapor barrier will be installed where needed. Adequate ventilation will be provided for basements and crawl spaces that are insulated.

**F. Pipe and Duct Wrap (hot water pipe insulation not allowed using LIHEAP funds):**

Hot water pipes and hot air heating ducts located in unconditioned areas will be insulated.

**G. Storm Windows:**

Installation of storm windows on primary windows between heated and unheated areas will occur.

The work covered by the RCAS will be performed as needed in homes that are otherwise in sound repair. In some cases, however, extreme conditions exist (such as roof deterioration or plumbing related failures in heating distribution systems) which must be corrected before weatherization can be justified.

**2.2.2 Allowable RETF Energy Efficiency Measures**

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**Only materials and standards identified in PSC Order #13475 are allowable using RETF funds.**

- A. Caulking and weatherstripping.**
- B. Furnace efficiency modifications, including, but not limited to:**
  - 1. Replacement burners, furnaces, or boilers or any combination thereof;**
  - 2. Devices for minimizing energy loss through heating system, chimney, or venting devices; and,**
  - 3. Electrical or mechanical furnace ignition systems which replace standing gas pilot lights.**
- C. Cooling efficiency modifications including, but not limited to:**
  - 1. Replacement air conditioners;**
  - 2. Ventilation equipment;**
  - 3. Screening and window films; and,**
  - 4. Shading devices.**
- D. Clock thermostats.**
- E. Ceiling, attic, wall, floor, and duct insulation.**
- F. Water heater insulation.**
- G. Storm windows and doors, multi-glazed doors and windows, heat-absorbing or heat-reflective window and door materials.**
- H. The following insulating or energy conserving devices or technologies:**
  - 1. Skirting.**
  - 2. Items to improve attic ventilation.**
  - 3. Vapor barriers.**

4. **Materials used as a patch to reduce infiltration through the building envelope.**
5. **Water flow controllers.**
6. **Movable insulation systems for windows.**
7. **Materials to construct vestibules.**
8. **Pipe and boiler insulation.**
9. **Heat exchangers.**
10. **Thermostat control systems.**
11. **Replacement windows and doors.**
12. **Energy efficient hot water heater modifications.**
13. **Hot water heat pumps.**
14. **Waste heat recovery devices.**
15. **Materials used for heating and cooling system tune-ups, repairs and modifications that will result in improved energy efficiency.**
16. **Materials used for boiler tune-ups, repairs, and modifications that will result in improved energy efficiency.**

**Waivers from the above listing cannot be allowed.**

**2.3 Determination of Customer Eligibility**

**The DCEO determines eligible low-income households for participation in the WRP using RETF Funding.**

**2.4 WRP in DCEO Organization Structure**

**The Conservation Services Division (CSD) manages the WRP.**

**2.4.1 Division Level - The Division Chief (DC) of CSD reports to the DCEO Director and is responsible for the overall determination of policies**

and guidelines for the implementation of the WRP. The Division Chief coordinates the activities of all program managers within the CSD team and support sections.

**2.4.2 WRP Management** - The Program Manager is responsible for the day-to-day administration of WRP. The Program Manager reports to the Division Chief.

**2.5. Program Operation**

This subsection outlines the operation of the WRP:

**2.5.1 Participant Selection** - The CSD requests and receives eligible customers processed for LIHEAP services by the Energy Assistance Team and have requested weatherization.

**2.5.2 Participant Permission** - Customers must complete a DCEO homeowner weatherization approval form requiring their signature, permission (or that of the owner of the residence) to request an energy audit on their behalf and authorization for the RCAS personnel to obtain energy costs and consumption data from energy providers. Owners of the residence must authorize permission to install EEMs in writing prior to the installation of EEMs and indicate satisfaction or dissatisfaction of work upon completion.

**2.5.3 Energy Audit Request** - CSD auditors will perform energy audits, unless specifically requested of the Subgrantee.

**2.5.4 Energy Audit Completion** - The CSD auditor completes the residential energy audit with recommended and prioritized EEMs.

**2.5.5 Assignments** - The WRP program manager will monitor the assignment of contracts to Subgrantees.

**2.5.6 Allowable EEMs and Labor Expenditures** - Allowable RETF energy efficiency measures and Public Service Commission Order 13475 identifies standards. Allowable WRP energy conservation materials are identified in this agreement. Subgrantees are required to obtain bids to employ contractors and expend funds under the RETF Program. Unless changed by the DCEO in writing, the cost of labor for installed energy conservation measures is to be no more than 60% of the total labor and material costs. EEMs and labor expenditure guidelines for WRP/ RETF funds must be expended in accordance with Public Service Commission guidelines.

- 2.5.7 Work Completion** - No dwelling unit may be reported to the DCEO as completed until all weatherization materials have been installed and a completed blower door post-EEM installation air exchange findings report has been provided by a contracted energy auditor. A copy of these findings is to be provided to the customer by the Subgrantee on the Customer Certification and Evaluation Form (see the end of this section). The work completion process also includes a final inspection of all work by the subgrantee, or its authorized representative. This is to ensure that all work, including that of any mechanical work performed, was performed in a satisfactory manner and in accordance with the requirements of the DCEO as determined by an energy audit, work order and WRP procedures.
- 2.5.8 Subgrantee Inspections of Completed Work** - No dwelling unit may be reported to the DCEO as completed until all weatherization materials have been installed and the Subgrantee, or its authorized representative, has performed a final inspection(s) including any mechanical work performed and certified in a satisfactory manner and in accordance with the findings determined by an energy audit, work order and WRP procedures.
- 2.5.9 DCEO Inspections** - Conservation improvements requiring DCEO approval prior to their installation will be reviewed by a DCEO inspector. A DCEO inspector who will notify the Program Manager whether work has been satisfactorily completed will monitor completed work. In the case of unsatisfactory work performance, this process is repeated until all work is completed to the satisfaction of the DCEO.
- 2.5.10 Evaluation** - The DCEO, as part of the overall evaluation, evaluates services provided and determines participant satisfaction.

**CUSTOMER CERTIFICATION AND EVALUATION FORM**

-----  
**PLACE CBO LETTERHEAD AND TELEPHONE NUMBER HERE.**

**A copy of this signed form must be left with the customer. The original is to accompany the monthly report to the DCEO.**

\*\*\*\*\*

**CUSTOMER CERTIFICATION AND EVALUATION FORM**

I, (Print name of customer) \_\_\_\_\_, of

(Address) \_\_\_\_\_ Phone \_\_\_\_\_,

hereby confirm that the energy conservation work done on my home by the above Community-Based Organization under the DC Energy Office's Residential Conservation Assistance Program has (check one):

Been completed satisfactorily ( ) Not been completed satisfactorily ( )

The description below (check one) best describes the work on my home:

Excellent ( ) Good ( ) Fair ( ) Poor ( )

Additional comments, if any, by customer: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Customer's signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

Comments by CBO representative: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Blower door air exchange readings: Pre-weatherization: \_\_\_\_\_

(if performed by CBO subcontractor) Post-weatherization: \_\_\_\_\_

**HOMEOWNER, CALL THE CONTACT BELOW IF YOU HAVE QUESTIONS:**

(Print): \_\_\_\_\_ Phone: \_\_\_\_\_

Community Based Organization

## Chapter 3: RESPONSIBILITIES OF PARTIES

### 3.1 Overview

The WRP provides for the purchase and installation of Energy Efficiency Measures (EEMs) in the residences of low-income citizens located within the District of Columbia and energy audits using the DOE-approved National Energy Audit Tool (NEAT) for single-family residences and EA-QUIP for multi-family residences. The low-income families must be eligible for the LIHEAP. Priority is granted to senior citizens, handicapped residents and households with children. The implementation and project completion period for WRP participants will be the fiscal year, June to May. The multi-year agreement period may be reduced to a lesser time or canceled without cause and for the convenience of the DCEO and at the discretion of the DCEO upon a fifteen-day notice to the Subgrantee. The Subgrantees must contract out the purchase and installation of all EEMs and energy audits, and will be responsible for the work performed by contractors and payments due to their contractors and sub-contractors.

### 3.2 Subgrantee Responsibilities

In an effort to provide faster customer services, the Subgrantee must provide a complete turn-around within 45 calendar days of receipt of customer name and funds from the DCEO. The Subgrantee understands that the only contacts allowed for all programmatic and financial activities under the WRP are the WRP Program Manager, CSD Division Chief, and the DCEO Director, in that order. Contacts with other members of the DCEO staff or attempts to intercede or interfere with the orderly processing of WRP and financial activities can result in the immediate termination of a Subgrantee agreement. Further, twenty working days from the day of Subgrantee request should be allowed for reimbursements. The Subgrantee shall:

3.2.1 Provide evidence to show that they have obtained adequate bonding and a minimum of \$300,000 insurance consisting of \$200,000 for public liability and \$100,000 for property damage. The subgrantee, and not the DCEO, is liable for all payments to contractors. Health problems resulting from lead paint disturbance and all property damage brought about as the result of the purchase and installation of energy efficiency measures in WRP homes is the liability of the subgrantee.

In addition, Subgrantees are to provide to the DCEO, at the time of submission of a signed DCEO/Subgrantee agreement for WRP participation, written assurance that there are no exclusion clauses

**in their insurance for doing Weatherization in a dwelling with lead paint when the installation of energy efficiency measure require the disturbance of painted surfaces. And, if assurance cannot be provided that they will defer Weatherization work that will disturb surfaces that may contain lead-based paint, until such time that they have insurance that will provide coverage for Lead Safe Weatherization (LSW) in work areas involving lead-based paint.**

**Subgrantees should note particularly OSHA Rule 29 CFR 1926, pertaining to lead paint and their potential liability from clients.**

**Lead-based paint dust and other residues are hazards that weatherization workers are likely to encounter in older homes. Subgrantees are required to have Pollution Occurrence Insurance (POI).**

- 3.2.2 Require that all contractors be bonded and they must obtain a minimum of \$300,000 insurance consisting of \$200,000 for public liability and \$100,000 for property damage.**
- 3.2.3 Analyze the energy audit to determine which prioritized EEMs are to be installed first and comply with Occupational Safety and Health Administration (OSHA) requirements in all weatherization activities which involve staff personnel and consult with DCEO where required.**
- 3.2.4 Select for installation those prioritized (see 10CFR 420.21(d)) EEMs that affect electric consumption with the highest Savings-to-Investment Ratio (SIR) recommended in an energy audit. Measures with an SIR of less than one must have DCEO approval. The Subgrantee must indicate the date of DCEO approval and the DCEO staff member. Subgrantees must provide an explanation for not installing eligible EEMs listed on the audit next to each omitted measure on the client data sheet.**
- 3.2.5 Select and identify only qualified contractors that possess valid District of Columbia Government provided Home Improvement License (HI), permits and other required licenses for the installation, retrofit or repair of heating, ventilation and air conditioning (HVAC) equipment. Provide copies of all contractors' HI and HVAC licenses to DCEO before work start-up and allow for DCEO verification with the DC Department of Consumer and Regulatory Affairs. Comply with OSHA and RETF - WRP Health and Safety requirements in all weatherization activities. Contractor costs to comply with OSHA requirements, as applicable, are a part of the bid price. Expenditures**

for the allowable abatements of hazards, as allowed and pre-approved by the DCEO, is not to exceed 10% of the maximum allowable per residence, not in addition to the maximum amount allowed.

- 3.2.6** In the case of WRP general weatherization, the Subgrantee may not expend more than \$2,672 per home for weatherization and no more than \$4,000 for HVAC work.

Other allowable WRP expenditures may include up to \$260 for pre and post) weatherization blower door audits by contracted vendors. No RETF funds may be used for administrative expenses.

- 3.2.7** Complete the installation of EEMs in the residences of clients within 45 calendar days of receipt of funds and customer name for weatherization.

- 3.2.8** Complete the installation of EEMs in the residences of clients to the satisfaction of the WRP team.

- 3.2.9** Require that all contractors certify in writing that they are not on the Consolidated List of Debarred, Suspended or Ineligible Contractors prepared by the General Services Administration and HUD.

- 3.2.10** Require contractors to provide in writing a minimum one-year warranty on installation and materials. Copies of all contractors Home Improvement and HVAC licenses to DCEO before work start-up.

- 3.2.11** Submit monthly reports to the DCEO no later than 10 days after the end of each month.

- 3.2.12** Submit to the DCEO, on a DCEO approved form, the monthly reports of all completed residences. A residence is considered completed when all recommended EEMs have been installed to the satisfaction of the DCEO WRP Team. The report should include for each completed residence:

- A.** Completed Inspection sheets that include audit recommendations, costs of work and measures purchased and installed, and completion date, and attachment of receipts for work and installed EEMs from vendors.
- B.** Customer Certification and Evaluation Form on CBO letterhead with telephone number (copy to be left with

customer and original to be submitted to the DCEO with monthly report (see sample at the end of Section 2).

- C. Copies of warranties and energy audits.
- D. Number of residences completed and not completed.
- E. Total amount of funds, by category identified by the DCEO, used and remaining to date.
- F. Total amount of funds remaining, by category identified by the DCEO.

3.2.13 Submit with proposal to the DCEO a copy of the current tax-exempt certification of the subgrantee from the District of Columbia and Federal governments.

3.2.14 Complete all WRP funded work, including contractor and inspections, by April 30<sup>th</sup> and submit final report to the DCEO by May 10<sup>th</sup> of each year and energy audit equipment and infrared devices at the end of the agreement period.

3.2.15 Indicate the total number of homes and energy audits the subgrantee proposes to complete.

3.2.16 Perform all work in accordance with the Weatherization Standards and Technical Manual for the Residential Conservation Assistance Services Program.

### 3.3 DCEO Responsibilities

The DCEO shall:

3.3.1 Facilitate timely payments to the Subgrantees.

3.3.2 Provide the names and addresses of eligible customers to Subgrantees.

3.3.3 Provide the Subgrantee with completed energy audits.

3.3.4 Inspect and approve EEM installations and exceptions.

3.3.5 Notify CBOs when EEM installations are not acceptable, and require that corrections be made within 30 days. The CBO will provide documentation notifying DCEO management that corrections have

been made. A DCEO inspector to determine adequacy of the correction will perform a second inspection.

**3.3.6 If requested, provide the Subgrantee with names of customers for energy audits, if the energy audits are not provided by the DCEO.**

**3.3.7 The DCEO retains the right to cancel the agreement between the DCEO and the CBO without cause and for the convenience of the District Government convert it to less than a three-year grant period via a written ten-day notice to the Subgrantee.**

**CHAPTER 4: OTHER SPECIFICATIONS AND REQUIREMENTS**

The Subgrantee is expected to comply with the following requirements:

- 4.1 **Contracting and Subcontracting** - The Subgrantee **must contract out the purchase and installation of all EEMs and will be responsible for the work performed by contractors and payments due to their contractors and sub-contractors.**
- 4.2 **Health and Safety** - The Subgrantees are to ensure that contractors they hire comply with OSHA and Safety regulations as applicable. In addition, the Subgrantee is expected to meet all requirements outlined in this Request for Grant Applications whether performed by its contractors or subcontractors.
- 4.3 **Inspection of Completed Work** - No dwelling unit may be reported to the DCEO as completed until all weatherization materials have been installed and the subgrantee, or its authorized representative, has performed a final inspection(s), including any mechanical work performed, and certify that it was completed in accordance with the recommendations determined by an energy audit, work order and RCAS procedures.
- 4.4 **Change in Procedures** - Any and all changes in policies, procedures and practices will be in writing from the DCEO before it is to be considered by the Subgrantee as official.
- 4.5 **Funding Period** - Funding for the implementation of this agreement is concurrent with the duration of the agreement.
- 4.6 **Utility Rebates** - Subgrantees are not to apply for nor receive rebates from utilities as a result of the purchase and installation of energy conservation measures in the homes of WRP clients. The WRP reserves the right to apply for utility rebates on behalf of the program.

**Chapter 5: COMPONENTS OF PROPOSAL**

The applicant's proposal shall provide the following information, utilizing the format in Appendix A:

- 5.1 Experience - The applicant shall submit a statement of experience, expertise and capability that qualify the Subgrantee to provide for conservation improvements and conduct post-installation inspections. The applicant must address the following individually in Part II of their proposal:**
- A. Experience and performance in weatherization or housing renovation activities.**
  - B. Experience in assisting low-income persons.**
  - C. Capacity to undertake a timely and effective weatherization program.**
  - D. If applicable, the extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion.**
  - E. The quality of work performed by the subgrantee.**
  - F. The number, qualifications and experience of the staff members of the subgrantee.**
  - G. The ability of the subgrantee to secure volunteers and train participants and community service workers.**

The applicant shall submit prior experience and expertise of key personnel and the organization in the area of management of the installation of energy conservation measures or comparable and transferable experience and expertise.

- 5.2 Resumes and Job Descriptions - The applicant shall submit resumes and job descriptions for all key personnel directly responsible for this project. The applicant is to indicate the extent of utilization of District of Columbia-based labor and small contractors, sub-contractors and businesses. The DCEO goal is 51 percent.**
- 5.3 Itemized Budgets - A detailed itemized budget shall be submitted for WRP funding sources. The budget shall include the expected level of contribution from DCEO.**

Administrative expenses are not allowed for RETF LIHEAP \$2,672 maximum regular weatherization and \$4,000 maximum for furnace, boiler, heat pump or domestic hot water heater purchases and installations.

Additional administrative and project funding may be allowed from other subgrantee sources. Utilizing past experience, if applicable, identify the number of expected residences to be completed under the proposed budget. Assuming a maximum limit on expenditures of an average of \$2,672 for WRP funds, 10% of \$2,672 or \$267 would be used for inspection fees. The balance of \$2,412 would be used to purchase and install EEMs.

Matching Program Funds - Another criterion in determining which applicant and what amount should be awarded will be to what extent the applicant is able to attract other funds for use in this program. Therefore, proposals should reflect the use of and access of the organization to other funds. This leveraging may include funds to offset administrative and programmatic costs. Indicate the source of funds and restrictions, if any, for the matching dollars.

- 5.5 Weatherization Milestones and Timetable - Because the DCEO places great emphasis on funds being spent expeditiously, the applicant must submit a schedule for RETF weatherization activities.
- 5.6 Operating Procedures - Provide narrative to address the requirements in Chapter 3, Section 3.2, Subgrantee Responsibilities. Each subsection of Section 3.2 is to be responded to briefly and separately by the applicant. Also, the applicant is to indicate the number of homes it proposes to weatherize.
- 5.7 Tax Exempt Status - The applicant shall provide a copy of official non-profit District of Columbia Certificate of Exemption and Federal 501 (c)(3) tax-exempt status.
- 5.8 DUNS Number - The applicant shall provide its official DUNS number (see Appendix C).
- 5.9 Assurances - Applicants are to submit with their proposal the set of assurances in Appendix D. Blank spaces at the beginning and end must be completed/signed, as required.

**Chapter 6: EVALUATION CRITERIA**

All prospective subgrantees are instructed to submit their best and final offer. An evaluation committee will be established to review all completed applications received by the submission deadline and will recommend to the Director of the DCEO acceptance or rejection of the applicants for program participation.

The following criteria will be used to evaluate all applications:

<b>6.1</b>	<b><u>Experience:</u></b>	<b>35 Points</b>
<p>The applicant must submit a statement of experience and expertise that would enable the prospective subgrantee to arrange for the purchase and installation of EEMs in DCEO designated homes, and for the inspection of completed homes and projects.</p>		
<p>Points will be distributed as follows:</p>		
A.	Experience and performance in weatherization and housing renovation activities.	5
B.	Experience in assisting low-income persons in the area to be served.	5
C.	Capacity to undertake a timely and effective weatherization program.	5
D.	If applicable, the extent to which the post or current program achieves or is achieving weatherization goals in a timely fashion.	5
E.	The quality of work performed by the subgrantee.	5
F.	The number, qualifications, and experience of the staff members of the subgrantee.	5
G.	The ability of the applicant to obtain volunteers, train its employees and employ staff for quality community service work.	<u>5</u>
<b>Total</b>		<b>35</b>

Applicants with more of the desired experience will receive more points when measured against other applicants.

**6.2 Resumes and Job Descriptions: 15 Points**

The applicant must submit prior related project and managerial experience of key personnel in the area of energy conservation, building construction or home improvement activities.

Applicants with more qualified project staff will receive more points when measured against other applicants.

**6.3 WRP and RETF Program/Administration Budgets: 15 Points**

Applicants with the more reasonable budgets under WRP and RETF requirements will receive more points when measured against other applicants.

**6.4 Matching Program Funds: 5 Points**

The applicants with more reasonable responses to this incentive will receive more points when measured against other applicants.

**6.5 Milestones and Timetable: 10 Points**

Applicants with the most reasonable milestones and timetable will receive more points when measured against other applicants.

**6.6 Operating Procedures: 20 Points**

Applicants are to address item-by-item, in the order presented, the requirements in Chapter 3, Subsections 3.2.1 through 3.2.17. Thus, seventeen areas will be addressed separately.

Applicants providing the most reasonable responses and indicate the better capability to implement and abide by the requirements of Section 3.2 will receive more points when measured against other applicants.

The Director of the DCEO reserves the right to make the final determination on recommendations by the evaluation committee. The allocation of grant amounts will be made by the RCAS staff and the Director of the DCEO and is independent of the evaluation committee review process. By the submission of a grant application the applicant agrees that the Director of the DCEO is the final appeal authority for rejected proposals, the determination of funding levels and increases or decreases in approved grant levels for successful applicants, taking

into consideration Federal and District guidelines.

**Summary of Evaluation Points**

1.	Experience	35 Points
2.	Resumes and Job Descriptions	15 Points
3.	Itemized Budget	15 Points
4.	Matching Program Funds	5 Points
5.	Milestones and Timetable	10 Points
6.	Operating Procedures	<u>20 Points</u>
	<b>TOTAL</b>	<b>100 Points</b>

A review committee composite score of less than seventy (70) points for an application means that it will not be recommended for approval and funding by the review committee.

**Chapter 7: APPLICATION SUBMISSION**

Applicants must assume all costs involved in the preparation and submission of the application. All applications submitted become the property of the District of Columbia Government.

Applicants must submit one original and six (6) copies of their application to the DC Energy Office and must be in the physical possession of the DCEO no later than 4:45 p.m. on the date proposals are due as identified in this solicitation.

Applicants that do not fulfill this requirement will have their application returned. Failure of a delivery mechanism to meet this deadline is the sole responsibility of the applicant.

All applications shall be submitted in a sealed envelope or package with the name and address of the applicant inscribed thereon. Applicants are asked not to call for assistance in proposal development, interpretation of the requirements of the Request for Grant Application or submission extensions. Extension requests will not be approved.

The application package of each applicant must be marked in the upper left corner with name and address of applicant. Deliver to the DCEO at the following address:

**WRP Grant Applications  
DC Energy Office  
2000 14th Street, NW, Suite 300 East  
Washington, DC 20009  
Attention: William C. Fesson**

All applications received after the closing date and time specified in this announcement will not be accepted and will be returned unopened to the applicant.

A pre-application conference to answer questions will take place in the DCEO conference room at the address above.

**Chapter 8: AWARD OF FUNDS**

It is contemplated that the program funds will be awarded to the most responsive, responsible applicant(s) whose application will be the most advantageous to the citizens of the District of Columbia. Awards may be made without discussion of applications received; therefore, all applications should be submitted initially to show a full and complete response. In the event that other funds become available for the RCAS during the period of this agreement, the DCEO reserves the right to increase the award amount, or reduce the award if program source funding is reduced for any of the selected organizations without the re-issuance of this application request.

The weatherization activities under this Request for Grant Applications will be undertaken with funds from private and public sources using RETF guidelines.

A pre-application conference to answer questions will take place in the DCEO Conference Room as noted earlier in this solicitation. All prospective applicants are urged to attend and ask any questions pertaining to this Request for Grant Applications.

**Chapter 9: POST-AWARD PROCESS**

**After the selection of the Subgrantee(s), the DCEO will present the terms and conditions for carrying out the RETF activities. Both DCEO and the Subgrantee(s) will sign an agreement that will include, at a minimum, Federal and District requirements. Afterwards, a post-award program seminar will be held by the WRP staff to provide program particulars for grant procedures and implementation.**

OCT 14 2005

DISTRICT OF COLUMBIA REGISTER

**PART II**  
**APPLICATION SUBMISSION**

June 2005 THRU June 2007

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# REQUEST FOR GRANT APPLICATIONS

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FROM NON-PROFIT COMMUNITY-BASED ORGANIZATIONS  
TO PROVIDE FOR  
THE PURCHASE AND INSTALLATION OF ENERGY EFFICIENCY MEASURES  
IN LOW-INCOME RESIDENCES  
UNDER THE RELIABLE ENERGY TRUST FUND  
WEATHERIZATION-REHABILITATION PROGRAM

\*\*\*\*\*

**DC ENERGY OFFICE**  
Government of the District of Columbia  
2000 14th Street, NW, Suite 300 East  
Washington, DC 20009  
(202) 673-6750

APPLICANT: \_\_\_\_\_

**APPENDIX A: APPLICATION CONTENTS AND FORMAT**

The contents, order and format of all applications shall be as follows:

- Part I:**                    **Application Funding Page**  
                                 **Submit funding page provided in Appendix B.**
  
- Part II:**                   **Experience**  
                                 **See Sections 5.1 and 6.1.**
  
- Part III:**                **Resumes and Job Description**  
                                 **See Sections 5.2 and 6.2.**
  
- Part IV:**                **Inspection of Completed Homes**  
                                 **See Section 4.2.**
  
- Part V:**                 **Itemized Budgets**  
                                 **See Sections 5.3 and 6.3.**
  
- Part VI:**                **Matching Program Funds**  
                                 **See Sections 5.4 and 6.4.**
  
- Part VII:**              **Milestones and Timetables**  
                                 **See Sections 5.5 and 5.6.**
  
- Part VIII:**            **Operating Procedures**  
                                 **See Sections 5.6 and 6.6.**
  
- Part IX:**               **Tax Exempt Status**  
                                 **See Section 5.7.**
  
- Part X:**                **DUNS Number**  
                                 **See Appendix C.**  
                                 **Signature required.**
  
- Part XI:**              **Assurances.**  
                                 **See Appendix D.**

**APPENDIX B: APPLICATION FUNDING PAGE**

June 2005 THRU June 2007

GRANT APPLICATION FROM NON-PROFIT COMMUNITY-BASED ORGANIZATIONS TO PROVIDE FOR THE PURCHASE AND INSTALLATION OF ENERGY CONSERVATION MEASURES IN LOW-INCOME RESIDENCES

**TO BE COMPLETED BY THE APPLICANT**

SOURCE	AMOUNT REQUESTED		MATCH		TOTAL
	ADMINISTRATION	PROGRAMMATIC	CASH	IN-KIND	
1. RETF/ WRP	\$	\$	\$	\$	\$
2. OTHER					
3					
<b>TOTAL</b>	\$	\$	\$	\$	\$

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

**TO BE COMPLETED BY THE D.C. ENERGY OFFICE**

Application Complete? Yes \_\_\_\_\_ No \_\_\_\_\_  
Missing Information:

Application Disqualified? Yes \_\_\_\_\_ No \_\_\_\_\_  
Reason:

Rating Score: \_\_\_\_\_ Rank: \_\_\_\_\_

AMOUNT APPROVED	PROGRAMMATIC		TOTAL
1 RETF/ WRP	\$	\$	\$
2. OTHER			
3.			
<b>TOTAL</b>	\$	\$	\$



**APPENDIX D: ASSURANCES****ASSURANCE OF COMPLIANCE WITH  
D.C. ENERGY OFFICE  
WEATHERIZATION- REHABILITATION PROGRAM  
RELIABLE ENERGY TRUST FUND  
FUNDING REQUIREMENTS**

(Name of Applicant) \_\_\_\_\_,  
hereinafter called the "Applicant," is aware that if the Subgrantee agreement is violated, the D.C. Energy Office reserves the right to withhold some or all of the funds. The Subgrantee is also aware that if the relationship between the DCEO and the Subgrantee is severed, the Subgrantee will return to DCEO all unexpended and unaccounted for dollars within thirty days. The Subgrantee understands that both parties must ratify any amendment to the Subgrantee agreement other than changes to funding levels in writing. The Subgrantee further understands that the DCEO reserves the right to increase the amount awarded in the event of excellent performance or decrease the amount awarded for poor performance or a decrease in available funding without notice to Subgrantee. Also, the Subgrantee agrees that the right of appeal is limited to the Director of the DCEO in all matters pertaining to the Reliable Energy Trust Fund (RETF) Weatherization- Rehabilitation Program (WRP).

The applicant hereby agrees and assures that it will comply with the following:

**1. BUY AMERICAN CERTIFICATION**

The Applicant hereby certifies that each product is a domestic end product (as defined in Clause 29 of the General Conditions, "Buy American Act", 41 U.S.C. 10) and that the components of unknown origin are considered to have been mined, produced, or manufactured outside the United States. This Act provides that the District give preference to domestic end products to be acquired for public use

**2. EMPLOYMENT AGREEMENT**

The applicant recognizes that one of the primary goals of the District Government is the creation of job opportunities for District residents. Accordingly, the Applicant agrees:

- a. to pursue the District's goal to the extent consistent with local and Federal law, to furnish at least fifty-one percent (51%) of

jobs created as a result of this agreement to District of Columbia residents in compliance with Mayor's Order #83-265, and to notify all prospective contractors, subcontractors, tenants, and leases, prior to execution of any contractual agreements, that they are expected to implement this Mayor's Order in their own employment practices; and,

- b. to sign a First Source Employment Agreement to utilize the DC Department of Employment Services as its first source for the referral of qualified Subgrantees, trainees, and other workers in the implementation of a contractual nature, in excess of \$100,000 for projects funded in whole or in part with District funds or funds that the District Government administers.

### 3. GENERAL SPECIFICATIONS

The Applicant will be expected to comply with the following requirements:

**Subcontracting:** The Applicant may subcontract specific functions of the operations but will be fully responsible for the work performed by the contractor. In addition, the contractor is expected to meet all requirements outlined in the agreement. The actual purchase and installation of all EEMs and energy audits must be contracted out by the Subgrantee.

**Resources:** The Applicant is responsible for providing all materials and resources needed for this agreement, including equipment and personnel.

### 4. EXAMINATION OF BOOKS, ETC. BY THE DCEO

The DCEO or any of its duly authorized representatives shall, until five years or Federal OMB audit completion after the agreement end date, have the right to examine pertinent books, documents, papers and records of the Applicant involving transactions related to this Agreement.

### 5. INDEMNIFICATION

The Applicant agrees to indemnify and save harmless the District and all its officers, agents and servants against any and all claims or liability arising from or based on, or as a consequence of or result of

any act, omission or default of the Applicant, its employees, or its subcontractors, in the performance of this agreement regardless of whether or not any damage resulting from Applicant's act, omission, or default is caused in part by the District. Monies due or to become due to the Applicant under this agreement may be retained by the District as necessary to satisfy any outstanding claim the District may have against the Applicant.

**6. TERMINATION FOR CONVENIENCE OF THE DISTRICT**

The DCEO may terminate performance of work under this agreement in whole or in part if the DCEO determines that a termination is in the District's interest. The DCEO shall terminate by delivering to the Applicant a Notice of Termination specifying the extent of termination and effective date.

**7. HEALTH AND SAFETY STANDARDS**

Items delivered under this agreement shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended, and Department of Labor regulations under the Act, and all Federal requirements in effect at time of agreement execution.

**8. WAIVER**

No waiver of any breach of any provision of this agreement shall operate as a waiver of subsequent or other breaches of the same of any other provision of this agreement, nor shall any action or non-action by the DCEO be construed as a waiver of any provisions of this agreement or any breach thereof unless the same has been expressly declared or recognized as a waiver by the DCEO in writing.

**9. OFFICIALS NOT TO BENEFIT**

No member of or delegate to Congress or officer or employee of the District shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom, and any agreement entered into by any DCEO officer in which he or any officer or employee of the District shall be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof.

**10. LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

The provisions of the following Acts, and applicable regulations made pursuant to said Acts, are hereby, to the extent applicable,

incorporated by reference in this agreement.

- a. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).**
- b. **Walsh-Healy Public Contracts Act of June 30, 1936, c881,49 Stat. 2036, as amended (applied only when agreement is \$10,000 or more).**

#### **11. NON-DISCRIMINATION IN EMPLOYMENT**

- a. **The Applicant will not discriminate against any employee because of race, creed, color, national origin, or sex. The Applicant will take affirmative action to ensure that Applicants are employed and that employees are treated during employment without regard to race, creed, color, national origin, or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.**
- b. **The Applicant will, in all solicitations or advertisements for employees placed by or on behalf of the Applicant, state that all qualified Applicants will receive consideration for employment without regard to race, creed, color, national origin and sex.**
- c. **The Applicant will permit access to all books, records and accounts pertaining to their employment practices by the DCEO, the Office of Human Rights, or its agents, for the purpose of investigation to ascertain compliance with the provision.**
- d. **In the event applicant is in non-compliance with the non-discrimination clause of this agreement, this agreement may be canceled in whole or in part and the Applicant may be declared ineligible for future District agreements in accordance with Commissioner's Administrative Instruction 2621.**

#### **12. UTILIZATION OF MINORITY BUSINESS ENTERPRISES**

- a. **It is the policy of the District Government that minority business enterprises shall have the maximum practicable**

opportunity to participate in the performance of District grantee agreements.

- b. The Applicant agrees to use its best efforts to carry out this policy in the award of its subcontracts to the fullest extent consistent with the efficient performance of this agreement.
13. The Applicant understands that a subgrantee will limit any request for advanced funding under this Agreement to twenty-five percent (25%) of its total grant Agreement award. The DCEO reserves the right to approve or deny any request for advanced funding. First-time RETF- WRP participants are asked not to request advanced funds. Funds to such Subgrantees will be provided on a reimbursement basis. If a Subgrantee receives advanced funding for the work to be performed under the terms of an Agreement, the Subgrantee further assures that any and all interest carried from the advanced funding allocations will be used to further the objectives of the RETF- WRP, as defined by the terms of this agreement.
14. The Applicant agrees that the implementation of a subgrantee agreement is contingent upon the allocation of funding of the DC Energy Office by the Reliable Energy Trust Fund, DC Public Service Commission, and other funding sources.
15. The Applicant agrees that a Subgrantee is not to apply for nor receive any rebates from utilities as a result its purchase and installation of energy conservation measures in the homes of clients and agrees that the DCEO has retained this right on behalf of the clients.
16. The Applicant agrees to comply with Federal OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (July 1, 1986) and other appropriate amendments or additions.
17. The Applicant agrees to comply with Federal OMB Circular A-122, "Cost Principles for Non-Profit Organizations" (July 8, 1980) and other appropriate amendments and additions.
18. The Applicant agrees to comply with the requirements of OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non- Profit Organizations."
19. The Applicant agrees that the Director of the DCEO reserves the right

to make the final determination on recommendations by the evaluation committee and that the allocation of grant amounts will be made by the RETF - WRP staff and the Director of the DCEO and is independent of the evaluation committee review process. Any and all Subgrantee appeals under the RETF - WRP are limited to the Director of the DCEO.

20. The Applicant certifies that to the best of its knowledge and belief, all information herein presented is true and correct and that its governing body for submission to the DC Energy Office has duly authorized this grant application.
21. The Applicant assures that it will obtain adequate bonding and a minimum of \$300,00 insurance consisting of \$200,00 for public liability and \$100,000 for property damage. The applicant agrees that a subgrantee is liable for any and all property damage brought about as the result of the purchase and installation of energy conservation measure(s) by its contractor(s) or subcontractor(s) under the RETF - WRP.
22. The Applicant understands and agrees that the US Department of Energy, the US Department of Health and Human Services, and the DC Public Service Commission may monitor and evaluate the operation of projects receiving financial assistance under this agreement through on-site inspections, or through other means, in order to ensure the effectiveness of weatherization assistance for the dwelling units of low-income persons.
23. The Applicant assures that it will comply with the requirements of this agreement and with all laws, regulations and administrative requirements pertaining to the expenditure of DCEO and Federal Government funds used to implement this agreement.
24. The Applicant herein assures that it is not on the Consolidated List of Debarred, Suspended or Ineligible Contractors prepared by the General Services Administration and HUD.

These Assurances are given in consideration of and the purpose of obtaining Federal and District grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal and District assistance extended after the date hereto, to the Applicant by the DC Energy Office, including installment payments on account after such date of application of District and Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal and District assistance will be extended in reliance upon the representations and agreements made in these assurances and that the

Federal and District of Columbia Governments shall have the right to seek judicial enforcement of these assurances. The Applicant recognizes that these assurances are binding on a Subgrantee, its successors, transferees, and assignees, as well as the person whose signature appears below and who is authorized by the applicant to sign for these assurances on behalf of an Applicant.

\_\_\_\_\_  
Name of Applicant Organization

\_\_\_\_\_  
Type or Print Name of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
Telephone Number of Authorized Official

\_\_\_\_\_  
Date

**DEPARTMENT OF HEALTH  
ENVIRONMENTAL HEALTH ADMINISTRATION**

**NOTICE OF FILING OF CLEANUP ACTION PLAN**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000 (Act) effective June 13, 2001, (D.C. Law 13-312; D.C. Official Code § 8-636.01(b)), the Voluntary Cleanup Program (VCP) in the Department of Health, Environmental Health Administration (EHA), Bureau of Hazardous Materials (BHM), is informing the public that it has received two separate proposed cleanup action plans. The first proposed cleanup action plan, case # VCP 2004-004, pertains to certain real property located at 1755-1759 Columbia Road, N.W. The applicants for VCP 2004-004 are Combined Properties, Incorporated and 1755-1759 Columbia Road, L.L.C., 1255 22<sup>nd</sup> Street, N.W., Sixth Floor, Washington, D.C. 20037-1225, Attn. Alexis S.C. Iszard. The applicants for VCP 2004-004 intend to redevelop the property for mixed commercial and residential use. The second proposed cleanup action plan, case # VCP 2005-005, pertains to certain real property located at 100 I (Eye) Street, S.E. The applicant for VCP 2005-005 is Eye Street, L.P., c/o JPI, 8300 Greensboro Drive, Suite 600, McLean, VA 22102, Attn. Mr. Aaron Liebert, Authorized Representative. The applicant for VCP 2005-005 intends to redevelop the property for use as two 13-story buildings containing 750 residential units and 600 parking spaces. Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission in which the properties are located.

Interested persons may submit written comments on the proposed approval of the cleanup action plans to the address listed below. The application for VCP 2004-004 identifies chlorinated and non-chlorinated hydrocarbons as contaminants of the Properties. The application for VCP2005-005 identifies moderate amounts of total petroleum hydrocarbons (TPH) and polyaromatic hydrocarbons (PAH's) in the soil. It also identifies limited amounts of TPH and methyl tertiary butyl ether (MTBE) in the groundwater. The EHA is required to consider all public comments it receives before acting on an application, cleanup action plan, or a certificate of completion. The cleanup action plans will be available for public review at the following location:

Voluntary Cleanup Program  
Bureau of Hazardous Materials, EHA  
51 N Street, N.E., Room 3024  
Washington, DC 20002

Interested persons may also obtain copies of the applications for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1747.

Written comments must be received within twenty-one (21) days from the date of publication of this notice in the *District of Columbia Register* and should be addressed to the attention of Patricia N. Young, Esq., Program Manager at the address listed above.

**DEPARTMENT OF HEALTH  
ENVIRONMENTAL HEALTH ADMINISTRATION**

**NOTICE OF FILING OF APPLICATION TO PERFORM VOLUNTARY CLEANUP**

Pursuant to § 601(b) of the Brownfield Revitalization Amendment Act of 2000 (Act) effective June 13, 2001, (D.C. Law 13-312; D.C. Official Code § 8-636.01(b)), the Voluntary Cleanup Program (VCP) in the D.C. Department of Health, Environmental Health Administration (EHA), Bureau of Hazardous Materials, is informing the public that it has received two applications to participate in the Voluntary Cleanup Program (VCP). Application # VCP-2005-006 pertains to certain real property located in the 2200 block of C Street, N.W. (South side of C Street). The applicant is the American Pharmacists Association, Inc., 2215 Constitution Ave. N.W., Washington, D.C. 20037, Attn. Dr. John A. Gans, Executive Vice President. The applicant intends to redevelop the property for use as a 6-story commercial office building containing 175,266 gross square feet with one level of below-grade office space and 177 parking spaces on two underground levels.

Application VCP2005-007 pertains to certain real property located at 5210 Third Street, N.E. (Building 1), 300 Hamilton Street, N.E. (Building 2) and 500 Galloway Street, N.E., (Building 3), collectively Fort Totten Park Apartments. The applicant is Fort Totten Park Apartments LP, 2 Bethesda Metro Center, Suite 250, Bethesda, Maryland 20814, Attn. Mr. Jeremy Small. The applicant intends to redevelop the property for use as a five-building residential apartment complex containing 370 apartments, 5,000 square feet of retail space, and approximately 560 parking spaces in two phases. Phase I consists of the three above buildings, retail and parking. Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission in which the property is located.

Interested persons may submit written comments on the proposed approval of the application to the address listed below. Application # VCP 2005-006 identifies moderate levels of volatile organic compounds (VOCs) and chlorinated solvent compounds in the soil. It also identifies moderate to high levels of chlorinated solvents in shallow groundwater. Application # VCP 2005-007 identifies several volatile organic compounds (VOCs), polyaromatic hydrocarbons (PAHs), and the metals arsenic, barium, and lead in soil and elevated concentrations of arsenic, barium, and lead in groundwater. The EHA is required to consider all public comments it receives before acting on an application, a cleanup action plan, or a certificate of completion. The applications will be available for public review at the following location:

Voluntary Cleanup Program  
Bureau of Hazardous Materials, EHA  
51 N Street, N.E., Room 3024  
Washington, DC 20002

Interested persons may also obtain copies of the applications for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1747.

Written comments must be received within twenty-one (21) days from the date of publication of this notice in the *District of Columbia Register* and should be addressed to the attention of Patricia N. Young, Esq., Program Manager at the address listed above.

OCT 14 2005

DISTRICT OF COLUMBIA REGISTER

**DISTRICT OF COLUMBIA  
HISTORIC PRESERVATION REVIEW BOARD**

**NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS**

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to *deny* designation of the following property as historic landmarks in the D.C. Inventory of Historic Sites. The property is no longer subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

**Case No. 02-20: Engine Company 14  
4801 North Capitol Street, NE (Parcel 124, Lot 155)  
Denied September 22, 2005**

**9244**



Office of the Secretary of the  
District of Columbia

September 22, 2005

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after October 15, 2005.

Aluning, Marivic L.	New	Paul Shearman Allen 1329 18 <sup>th</sup> St, NW 20036
Archer, Shirlene A.	New	2700 30 <sup>th</sup> St, NE 20018
Arenas, Nancy	Rpt	G W University Hospital 900 23 <sup>rd</sup> St, NW#G2054 20037
Aye, Chan	Rpt	V O A/Burmese 330 Indep Ave, SW#603 20237
Barcus, Sally M.	Rpt	Credit Union Natl Assoc 601 Pa Ave, NW#600 20004
Bargielski, Elizabeth	New	Sutherland Asbill Brennan 1275 Pa Ave, NW 20004
Barksdale, Erin	New	Jurys Doyle Hotel Group 1500 N H Ave, NW 20036
Barta, Nikolaus	New	Carmel & Carmel 4101 River Rd, NW 20016
Bartlow, Jessica	Rpt	Kellogg Huber Hansen 1615 M St, NW#400 20036
Beauge, Diana V.	New	Wachovia Bank 1447 P St, NW 20005

Benson, Elaine K.	New	School Without Walls 2130 G St,NW 20037
Blanco-Moore, Tonja M.	New	Office of Bar Counsel 409 E St,NW 20001
Blitz, Karen	New	Davidson & Company 1330 I St,NW#500W 20005
Bossard-Mack, Nicole	New	Chevy Chase Bank 4000 Wis Ave,NW 20016
Bottrell, Cathy D.	Rpt	A C W 1726 M St,NW#1101 20036
Boyd, Jocelyn	New	Bank of Georgetown 1054 31 <sup>st</sup> St,NW#18 20007
Bradley, Jordana	New	CareFirst BlueCross 840 First St,NE 20065
Brincefield, Barbara	Rpt	Cahill Gordon Reindel 1990 K St,NW#950 20006
Britton, Ida H.	New	Amer Healthcare Mgt 4460 MacA Blvd,NW 20007
Brooks, Sherry L.	New	L A D Reporting 1100 Conn Ave,NW 20036
Brown, Sr., Ronald C.	New	Christian Love Bapt Ch 818 Bladensburg Rd,NE20002
Buckman, Steven M.	Rpt	Lotstein Buckman 5185 MacA Blvd,NW 20016
Butler-Campbell, Barbara	Rpt	Argiculture F C U 1800 M St,NW#3092 20036
Cade, Alice C.	New	Carr Morris & Graeff 1120 G St,NW#930 20005

Cannon, James C.	New	6939 Ga Ave,NW#312 20012
Capotosto, Catherine J.	New	Cox Enterprises 1225 19 <sup>th</sup> St,NW#450 20036
Carrera, Marilyn	New	Chevy Chase Bank 1717 Pa Ave,NW 20006
Castrovinci, Juliet P.	New	O'Brien Butler et al 888 17 <sup>th</sup> St,NW#1200 20006
Christian, Juanita J.	Rpt	Chemonics International 1133 20 <sup>th</sup> St,NW 20036
Cole, Robin D.	New	LandAmerica Financial 1015 15 <sup>th</sup> St,NW#300 20005
Cooper, Linda R.	New	Reserve Officers Assoc 1 Const Ave,NE 20002
Covelli, Joseph A.	New	Commerce Bank 1753 Conn Ave,NW 20009
Craft, Joshua V.	New	Carmel & Carmel 4101 River Rd,NW 20016
Creighton, Brandi L.	New	Commerce Bank 1753 Conn Ave,NW 20009
Crocker, M. Susan	New	Ross Dixon Bell 2001 K St,NW 20001
Crump, Tina D.	New	MiCRA 1155 Conn Ave,NW#900 20036
Davis, Mary Browse	New	Freedom House 1319 18 <sup>th</sup> St,NW 20036
Davis, Monica S.	New	Surety Allied Title 1004 Congress St,SE 20032

Davis, Ramona S.	New	The Advisory Board Co 2445 M St,NW 20037
Davis, Shirley A.	New	Coldwell Banker 109 8 <sup>th</sup> St,NE 20002
Davis-Glave, Angela	New	Council on Foundations 1828 L St,NW#300 20036
Delaglio, Anthony	New	L A D Reporting 1100 Conn Ave,NW 20036
DiMonte, William	New	L A D Reporting 1100 Conn Ave,NW 20036
Drake, Deanna M.	New	Wells Fargo Bank 1750 H St,NW#400 20006
Dravillas, George S.	Rpt	Dravillas & Company 1830 Columbia Rd,NW 20009
DuBose, Deborah H.	New	Hogan & Hartson 555 13 <sup>th</sup> St,NW 20004
Ekekwe, Olekanma A.	New	Attorney at Law 717 D St,NW#314 20004
Evans, Greg	New	Chevy Chase Bank 1717 Pa Ave,NW 20006
Evans, Olivia J.	New	Williams & Connolly 725 12 <sup>th</sup> St,NW 20005
Fleishell, Patricia A.	Rpt	Associated Press 1825 K St,NW#800 20006
Gabriel, Esther R.	New	U S T T I 1150 Conn Ave,NW#702 20036
Geiger, Valerie B.	New	Elder&Disability Law Ctr 1800 M St,NW#300N 20036

Goldstein, Alexa	New	Mark Kodama, Esquire 5125 MacA Blvd, NW 20016
Granger, Wanda	Rpt	Olender Reporting 1522 K St, NW#720 20005
Graves, Tina	New	Wachovia Bank 444 N Cap St, NW 20001
Griggs, Theresa	New	Air Force District/Wash 20 MacDill Blvd 20032
Guetzkow, Jason S.	New	Lotstein Buckman 5185 MacA Blvd, NW 20016
Hall, Antoinette	Rpt	Gibson Dunn & Crutcher 1050 Conn Ave, NW 20036
Harley, Glenys	New	Office of Bar Counsel 409 E St, NW 20001
Harmonson, John L.	New	L A D Reporting 1100 Conn Ave, NW 20036
Harrigan, Judith M.	Rpt	U S Court of Appeals 333 Const Ave, NW 20001
Harrison, James E.	New	Commerce Bank 1753 Conn Ave, NW 20009
Hartl, Christopher B.	New	Commerce Bank 1753 Conn Ave, NW 20009
Henry, Jacqueline A.	New	Wachovia Bank 3200 Pa Ave, SE 20020
Higgins, Jonathan D.	New	Bank of Georgetown 1054 34 <sup>th</sup> St, NW#18 20007
Hill, Telores W.	New	Ross Dixon Bell 2001 K St, NW 20006

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Hinson, Nyika	New	H Street Martini Lounge 1236 H St,NE 20002
Jackson, Frankie R.	New	L A Times Wash Bureau 1875 I St,NW#1100 20006
Jacobsen, Kirsten	New	Capitol Hill Consulting 499 S Cap St,NW#608 20003
John, Riley E.	New	Steptoe & Johnson 1330 Conn Ave,NW 20036
Jones, Martha V.	Rpt	Federal Energy Reg Comm 888 First St,NE 20426
Jones, Stephen W.	New	Patriot Realty 1003 K St,NW#207 20001
Jones, Suzanne	New	AFL-CIO Housing 1717 K St,NW#707 20036
Joseph, Irma	New	R T C 1100 17 <sup>th</sup> St,NW10thFl 20036
Judkins, Grace	New	4028 20 <sup>th</sup> St,NE 20018
Krautkramer, Danielle	Rpt	L A D Reporting 1100 Conn Ave,NW#850 20036
Lacerona, Elisa B.	New	Paul Allen & Associates 1329 18 <sup>th</sup> St,NW 20036
Lark, James	New	Dudley & Singletary Prop 2004 R I Ave,NE 20018
Leigh, Susan	Rpt	Cuneo Gilbert LaDuca 507 C St,NE 20002
Maglio, Emily	New	Sanford Wittels Heisler 2121 K St,NW#700 20037

9250

Manning, Voncille	New	718 Otis Pl,NW 20010
Mardakis, Anthony	New	Mauro Law Offices 1020 19 <sup>th</sup> St,NW#400 20036
Maree, Catherine F.	New	Homeland Security 7 <sup>th</sup> & D St,SW 20528
Marinello, Helen	New	Capital Kids II 1250 24 <sup>th</sup> St,NW#195 20037
Matheson, Lawrence	New	LandAmerica Financial 1015 15 <sup>th</sup> St,NW#300 20005
Mayfield, Idrea	New	Office of Bar Counsel 409 E St,NW 20001
Mhooon, Paul A.	New	The NHP Foundation 1090 Vt Ave,NW#400 20005
Miles, Julia	Rpt	Diligence 1211 Conn Ave,NW6thF1 20036
Miller, Lorraine	New	U S Department of Labor 200ConstAve,NW#C3321 20210
Ooro, Ivy	New	Commerce Bank 1753 Conn Ave,NW 20009
Parris, Elizabeth S.	New	Andrews Kurth 1701 Pa Ave,NW 20006
Perez, Delanda Bartens	Rpt	Ernst & Young 1225 Conn Ave,NW 20036
Perry, Felice	Rpt	Arent Fox 1050 Conn Ave,NW 20036
Perry, Stephanie L.	New	Universal Madness 3120 Ga Ave,NW 20010

Petty, Wanda M.	New	1540 Roxanna Rd,NW 20012
Pham, Chan Q.	New	ABDO Development 1404 14 <sup>th</sup> St,NW2ndFl 20005
Phillips, Sarah A.	New	Hillandale Homeowners 3939 HillandaleCt,NW20007
Quinteros, Hilda	New	CropLife America 1156 15 <sup>th</sup> St,NW#400 20005
Redfield, Taquasha	New	Commerce Bank 1753 Conn Ave,NW 20009
Reilly, Samantha L.	New	Musolino & Dessel 1615 L St,NW#440 20036
Roll, Lindsey E.	New	Skadden Arps Slate et al 1440 N Y Ave,NW 20005
Russell, Donna V.	New	C R & R 4050 Grant St,NE#201 20019
Santoso, Diana	New	Economics Research Assoc 1101 Conn Ave,NW#750 20036
Satkin, Paula G.	Rpt	Derenberger & Page 1430 S St,NW 20009
Scott, Adrian Deon	New	Wachovia National Bank 1300 Conn Ave,NW 20036
Scott, Joan L.	Rpt	Cassidy & Pinkard 2001 Pa Ave,NW#800 20006
Seegars, Dawn K.	New	Avery & Associates 1331 H St,NW#902 20005
Sellars-Denny, Donna	Rpt	Amer Psychological Assoc 750 First St,NE 20002

Shebay, Anastasia	New	Trammell Crow Company 1055 ThJeff St,NW#600 20007
Simpson, Eugenia	New	517 Allison St,NW 20011
Slavin, Deirdre M.	New	Boies Schiller Flexner 5301 Wis Ave,NW 20015
Smargisso, Christopher	New	Commerce Bank 1753 Conn Ave,NW 20009
Smith, Kimberly N.	New	Commerce Bank 1753 Conn Ave,NW 20009
Smith, Robyn L.	New	The U P S Store 3220 M St,NW 20007
Stokes, Shameka W.	New	O A G/Child Support 441 4 <sup>th</sup> St,NW#550N 20001
Thompson, Lisa	New	Dickstein Shapiro et al 2101 L St,NW#800 20037
Thompson-Epps, Tonya D.	New	Green Management 1508 18 <sup>th</sup> St,SE#2 20020
Tropeano, Antonio	New	L A D Reporting 1100 Conn Ave,NW 20036
Tyler, Merita	New	O A G/Child Support 441 4 <sup>th</sup> St,NW 20001
Udensiva-Brenner, Masha	New	Mark Kodama, Esquire 5125 MacA Blvd,NW#17 20016
Wade, Frances C.	New	Office of Bar Counsel 409 E St,NW
Walburn, Debra L.	Rpt	United Assoc Plumbers 901 Mass Ave,NW 20001

Washington, Keith	New	4522 Eastern Ave,NE 20018
Wesley, Edwin	New	Heritage Reporting 1220 L St,NW 20005
Williams, Nagikah R.	New	Bank of Georgetown 1054 31 <sup>st</sup> St,NW 20007
Williams-Benson, Angela	New	Porter Wright et al 1919 Pa Ave,NW#500 20006
Wilson, Termetrice	New	D O H/Vital Records 825 N Cap St,NE 20002
Windley, Brenda R.	Rpt	Howrey 1299 Pa Ave,NW 20004
Wright, Jacqualene Brooke	New	Monument Realty 1155 Conn Ave,NW7thFl 20036

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

**Application No. 17295 of the Good Samaritan Foundation**, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements of § 771, and a variance from the parking requirements of § 2101.1, to allow the interior renovation of an existing building and conversion of the space into a community center and after-school mentoring program in the C-2-A District at premises 2405 Martin Luther King, Jr. Avenue, S.E. (Square 5789, Lot 808).

**HEARING DATE:** March 29, 2005

**DECISION DATE:** March 29, 2005

**DECISION AND ORDER**

This application was submitted on January 11, 2005 by The Good Samaritan Foundation, ("Applicant"), the owner of the property which is the subject of this application ("subject property.") This self-certified application requested two area variances, one from the maximum permitted non-residential floor area ratio ("FAR") and one from the minimum number of off-street parking spaces required. The variances were requested in order to allow the Applicant to convert an existing building into a community center with an after-school program for high school students.

The Board of Zoning Adjustment ("BZA" or "Board") held a public hearing on the application on March 29, 2005 and by a vote of 5-0-0 decided to grant the application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memoranda dated January 13, 2005, the Office of Zoning ("OZ") gave notice of the filing of the application to the Office of Planning ("OP"), the District Department of Transportation, Advisory Neighborhood Commission ("ANC") 8C, the ANC within which the subject property is located, Single Member District/ANC 8C01, and the Council Member for Ward 8. Pursuant to 11 DCMR § 3113.13, OZ published notice of the public hearing in the *District of Columbia Register*, and on January 24, 2005, sent such notice to the Applicant, all property owners within 200 feet of the subject property, and ANC 8C.

Requests for Party Status. ANC 8C was automatically a party to this proceeding. There were no other requests for party status.

Government Reports. On March 22, 2005, the Office of Planning submitted a report of the same date recommending approval of the application. OP analyzed the application

with respect to the three prongs of the variance test and concluded that both the FAR and the parking variances should be granted.

There were no other government reports filed in this case.

ANC Report. ANC 8C submitted a letter dated March 16, 2005, stating that, on that date, during a special community meeting, with a quorum present, the ANC had considered this application. The ANC voted to approve the interior conversion and renovation of the building on the subject property, and therefore the FAR variance. The ANC, however, did not approve the parking variance, stating that the Applicant must provide the ANC with evidence that it has at least five "permanent" parking spaces before the ANC could approve the parking variance.

### FINDINGS OF FACT

1. The subject property is located in a C-2-A zone district at 2405 Martin Luther King, Jr. Avenue, S.E., near the intersection with Talbert Street, S.E.
2. The subject property has a lot area of approximately 6,500 square feet.
3. The property is developed with a 2-story building constructed in 1947 as the Carver Theater. The building was later acquired by the Smithsonian Institution and used as the African-American Museum, but has been vacant since 1984, is now in a deteriorated condition, and is in serious need of repairs.
4. Immediately adjacent to the property is a take-out restaurant, a vacant lot, and a PEPCO substation. The Savoy Elementary School is located immediately to the west and north of the property, separated by a dead-end alley on the north side. Located one block from the property is the Thurgood Marshall Charter School, a high school which is currently under construction.
5. The Anacostia Metro Station is approximately one and one-half blocks from the property and there is regular Metrobus service along Martin Luther King, Jr. Avenue.
6. The Applicant proposes to convert the former theater building into its headquarters offices and a community center. The community center will provide adult career training and other services to people in the community during the daytime and weekend hours. The center will also provide a safe, structured after-school program open to approximately 100 high school students four days a week during the school year and five days a week during the summer.

7. The hours of operation of the after-school program will be from 3:30 p.m. to 6:00 p.m., with an extension to 8:00 p.m. on Wednesday evenings.
8. The Applicant relies on volunteers and currently has 6 employees, consisting of one intern and 5 full-time employees. In the near future, the Applicant hopes to hire 5 more employees, 2 of whom will be part-time.
9. The Applicant owns a 15-passenger van which it uses to pick up the high school students at various locations and transport them to its current after-school program, located at 1317 8<sup>th</sup> Street, N.W. The Applicant intends to continue to use the van to service the new after-school program on the subject property.
10. The van is kept at a Metropolitan Police facility near the location of the current after-school program, and the Applicant intends to keep it at such a facility near the subject property once the new after-school program is operational.
11. Only 10% of the families of the 65 students currently participating in the Applicant's after-school program have access to an automobile and only 2 of the Applicant's 6 current employees drive to work. The vast majority of volunteers will arrive at the subject property by metro.
12. Because the building on the subject property was originally built as a theater, it is open from the floor of the first story to the ceiling of the second story, with only a mezzanine, but no intervening second floor.
13. The current FAR of the building is 1.3, within the 1.5 non-residential FAR permitted in the C-2-A zone. 11 DCMR § 771.2.
14. The Applicant intends to insert a second floor into the building to create more usable space, thereby increasing the non-residential FAR to 1.67, or 11% more than permitted.
15. The increase in FAR, however, will not increase the building's footprint, and therefore will not increase the building's lot occupancy, which is currently 89%.
16. Although the lot occupancy is 89% and 100 % lot occupancy is permitted, there is no area large enough in the rear of the building to accommodate any parking spaces. There is an area in front of the building large enough for only one small space, but this area is outside the building restriction line.

17. Although the Zoning Regulations would require 30 off-street parking spaces for the subject building, it appears that none of the building's former uses provided any on-site parking and it is not now economically or structurally feasible for the Applicant to construct below-grade parking spaces on the property. *See*, 11 DCMR § 2101.1.
18. The Applicant has the permission of the principal of the nearby Savoy Elementary School for its employees to use between 2 and 5 off-street parking spaces located on the School property and the Applicant is also working with the nearby Bethlehem Church in order to secure more parking.
19. The Applicant does not propose to hold any large functions on the subject property, and the largest room that will result from the interior renovation being undertaken will accommodate a maximum of only 20 to 30 persons.

### CONCLUSIONS OF LAW

The Board is authorized to grant variances from the strict application of the Zoning Regulations in order 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 any Zoning Regulation would "result in particular and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property...." D.C. Official Code § 6-641.07(g)(3), 11 DCMR § 3103.2. The "exceptional situation or condition" of a property can arise out of the structures existing on the property itself. *See, e.g., Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974). 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), 11 DCMR § 3103.2.

An applicant for an area variance 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 the variances will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

The building on the subject property was built as a theater and is two stories in height, but has no second floor. This unusual configuration does not lend itself to many uses, other than a theater, and may explain why this building has been vacant for 21 years. The Applicant intends to stabilize, repair, and renovate the building, including adding a

second floor to create a much more practical configuration and considerably more usable space. The addition of the second floor, however, creates the need for a FAR variance as the Applicant's non-residential FAR becomes 1.67, slightly above the maximum permitted non-residential FAR of 1.5. Without the small increase in FAR, the owner would encounter severe practical difficulties in using the property as a community service center. In fact, use of the property as a community center is only feasible with the FAR variance. The owner can only operate the community service center on the property by adding a second floor. Without that additional space, there would be insufficient training and study space for the students and community residents. In light of the existing conditions of the structure – location of the stairs, entrance, plumbing, heating and cooling units, reconfigurations are limited, but in any event, any possible reconfiguration would increase the FAR and require variance relief.

The siting of the building on the property is also exceptional. Although it does not fully occupy the lot, it does not leave any open area suitable for off-street parking spaces. There are two small open spaces in the rear of the lot, but they are separated by the building itself, leaving inadequate area and access for the provision of parking. There is a small open space in front of the building, but it is encumbered by the building restriction line. Further, as the building is already standing, the Applicant cannot excavate and provide below-grade parking. Therefore there is no way the Applicant can provide the required 30 off-street parking spaces, if any, on the property.

Based on all the above, the Board concludes that the Applicant has met the first two prongs of the variance test. The building itself and its siting are exceptional and cause the Applicant practical difficulties in adhering strictly to the Zoning Regulations.

The Board also concludes that granting the variances will not impair the public good or the intent or integrity of the Zoning Regulations and Map. The Applicant's community center is a matter-of-right use in this C-2-A zone. With the variance, the FAR for this property will still be well under the maximum FAR permitted in the C-2-A zone district – 2.5 for an all residential building. Traffic and parking congestion in the neighborhood will not be significantly impacted by the Applicant's use or by its lack of off-street parking. The subject property is within easy walking distance of the Anacostia Metro Station and there is regular and continuous bus service along Martin Luther King, Jr. Avenue. At this point, only two of the Applicant's employees drive to work and they do so because they need to drive to various sites to mentor the students in the after-school program. It is anticipated that this number will decrease when the students and mentors are all located together at the new building. The Applicant has received permission from the principal of the Savoy Elementary School to make use of its parking lot and is also working with the nearby Bethlehem Church to be permitted to use its lot. Further, the vast majority of the students in the Applicant's after-school program do not have access to a vehicle and arrive either on foot or by public transportation. Although some of the students and/or their families will presumably drive to the subject property, the Applicant

will continue to use a 15-passenger van to transport students to the property, which should alleviate both parking and traffic impacts, if any.

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgment of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive. The Office of Planning recommended granting the two variances and the Board agrees with its analysis and its recommendation.

ANC 8C recommended granting the FAR variance, but could not recommend granting the parking variance. The Board does not see, however, short of demolishing parts of the subject building, how the Applicant can provide any parking on the subject property, let alone 30 parking spaces. Further, the Applicant, as set forth above, has taken steps to mitigate any impact the granting of the parking variance may have. Although the Board understands that the ANC would like to see the Applicant provide "at least 5" parking spaces, this would still require a variance from the total number of spaces required (30). The Board, therefore, is not persuaded by the ANC's recommendation of denial of the parking variance.

Based on the record before the Board and for the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for variances from the FAR requirement of § 771.2 and the parking requirement of § 2101.1. It is therefore **ORDERED** that the application be **GRANTED**.

**VOTE:** 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann, II and Gregory Jeffries to grant.)

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

Each voting member has approved the issuance of this Order granting this application.

**FINAL DATE OF ORDER:** SEP 14 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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

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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 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.

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

**Application No. 17361 of William H. Mosley, Jr. and Lisa Dowden**, as amended, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear deck addition to a single family dwelling under section 223, not meeting the lot occupancy requirements (section 403), rear yard requirements (section 404) and nonconforming structure provisions (subsection 2001.3) in the R-4 District at premises 1742 Hobart Street, N.W. (Square 2588, Lot 101).

*Note: The application was originally advertised to request relief for variances from the lot occupancy, rear yard and nonconforming structure requirements. The applicants reduced the lot occupancy to 124 square feet (from 194 square feet) to come within the maximum allowed for relief under section 223. Thereafter, the applicants amended the application to request special exception rather than variance relief.*

**HEARING DATE:** September 27, 2005  
**DECISION DATE:** September 27, 2005 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The original application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

**SELF-CERTIFIED**

The amended 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) 1D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. ANC 1D submitted a report in support of this application. The Office of Planning (OP) also submitted a report in support of the amended 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 223. 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.

BZA APPLICATION NO. 17361

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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 223, 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 be **GRANTED SUBJECT** to the following **CONDITION**:

1. The applicant shall provide some type of screening above the deck's railing to add a measure of privacy for the adjoining neighbors.

**VOTE:**       **5-0-0**           (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, Curtis L. Etherly, Jr. and Anthony J. Hood to approve).

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** SEP 29 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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 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.

twr

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

**Application No. 17363 of Monogram Renovations LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow additions to two single-family row dwellings under section 223, not meeting the minimum lot area and lot width requirements (subsection 401.3), and lot occupancy requirements (section 403) in the R-4 District at premises 1120 and 1122 K Street, S.E. (Square 996, Lots 28 and 29).

**HEARING DATE:** September 27, 2005  
**DECISION DATE:** September 27, 2005 (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) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) also 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 223. 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 223, 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 be **GRANTED**.

**VOTE:** 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, Curtis L. Etherly, Jr. and Anthony J. Hood to approve.

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** September 29, 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

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BZA APPLICATION NO. 17363

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ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. 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

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

**Application No. 17365 of Kevin R. West**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two story rear addition to an existing single-family row dwelling under section 223, not meeting the lot occupancy requirements (section 403), and rear yard requirements (section 404), in the R-4 District at premises 1535 A Street, S.E. (Square 1072, Lot 810).

Note: The Applicant initially requested variance relief from the area provisions of the Zoning Regulations. The Applicant reduced the size of the addition and revised the application to request relief under § 223.

**HEARING DATE:** September 27, 2005  
**DECISION DATE:** September 27, 2005 (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) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a report in support of the application. The Office of Planning (OP) also 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 223. 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 223, 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 be **GRANTED**.

**VOTE:** 5-0-0 (Geoffrey H. Griffis, John A. Mann II, Ruthanne G. Miller, Curtis L. Etherly, Jr. and Anthony J. Hood to approve.

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** September 29, 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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

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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 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**

**NOTICE OF SPECIAL MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Thursday, November 10, 2005, at 7:00 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Senior Zoning Specialist for the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**Z.C. CORRECTED\* ORDER NO. 03-12C/03-13C**  
**Z.C. Case Nos. 03-12 and 03-13**  
**Preliminary and Consolidated Approvals for Planned Unit Developments**  
**and Related Map Amendment for**  
**the Property Generally Bounded by 2nd Street, S.E., 7th Street, S.E.,**  
**Virginia Ave., S.E. and M Street, S.E.**  
**(Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882**  
**and Portions of Squares 737, 799, 824, N853, and 880)**  
**October 3, 2005**

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on July 24 and 28, 2003 to consider applications from Capper/Carrollburg Venture, LLC, the District of Columbia, the District of Columbia Housing Authority, and Square 769, LLC (collectively, "Applicants") for preliminary and consolidated review and approval of a planned unit development in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and portions of Squares 737, 799, 824, and 880, and related map amendments to rezone Square 767, the southern portions of Squares 768 and 882, and the northern portion of Square 769 to the CR district. The Commission considered the applications pursuant to chapters 24 and 30 of the D.C. 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 Zoning Commission hereby approves the applications with conditions. (*Note: A portion of Square N853 was subsequently included as part of the applications.*)

**FINDINGS OF FACT**

**The Applications, Parties, and Hearing**

1. On March 21, 2003, the Applicants filed applications with the Zoning Commission for preliminary and consolidated approval of two planned unit developments ("PUDs") that together comprise one large PUD and for related map amendment for property located in the Southeast quadrant of Washington, D.C. and generally bounded by 2<sup>nd</sup> Street on the west, 7<sup>th</sup> Street on the east, Virginia Avenue on the north, and M Street on the south. Consisting of approximately 33 acres of land area, the PUD site as initially proposed included all property in Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882

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\* This order corrects Condition No. 2 to add lot 30 to Square S825.

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PAGE 2

- and portions of Squares 737, 799, 824, and 880; a portion of Square N853 was also included subsequently. The site is presently zoned R-5-B, except for Squares 737 and 739, and the southern half of Square 769, which are zoned C-3-C. The Applicants are seeking preliminary review and approval for the entire PUD site, consolidated review and approval for Squares 797, 798, 824, 825, 825S, and 880, and a PUD-related amendment to the zoning map to rezone Square 767, the southern portions of Squares 768 and 882, and the northern portion of Square 769 to the CR district.
2. Prior to taking action on the applications, the Zoning Commission received a letter, dated October 28, 2003, from the Superintendent of the District of Columbia Public Schools. The letter requested that the Van Ness Elementary School, located on the east side of 5<sup>th</sup> Street between L and M Streets, be included in the PUD. By letter dated November 6, 2003, the Applicants indicated their intention to include the Van Ness School in the PUD. In the Applicant's Supplemental Post-Hearing Submission, dated November 17, 2003 and marked as Exhibit No. 78 of the record, Lot 809 in Square N853 was included on the appropriate plans.
  3. The Applicants are Capper/Carrollsbury Venture, LLC, the District of Columbia, the District of Columbia Housing Authority ("DCHA"), and Square 769, LLC. Capper/Carrollsbury Venture, LLC is a joint venture of Mid-City Urban, LLC and Forest City Enterprises. Square 769, LLC, is a subsidiary of the William C. Smith & Co.
  4. The purpose of the PUD is to implement a revitalization plan at the site of the Arthur Capper/Carrollsbury Dwellings, a public housing community owned by DCHA. The project is funded in part by the HOPE VI program of the U.S. Department of Housing and Urban Development ("HUD"), which targets the replacement and revitalization of severely distressed public housing and includes supportive services for residents to help them achieve self-sufficiency.
  5. After proper notice, the Zoning Commission held a hearing on the applications on July 24 and 28, 2003. The parties to the case were the Applicants; Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the property is located; and ANC 6B, an affected ANC that borders the PUD Site at the north along the Southeast Freeway and Virginia Avenue, S.E., and to the east at 7<sup>th</sup> Street, S.E.
  6. At its duly noticed meeting held July 14, 2003, ANC 6D voted 4-0-2 to oppose the PUD. The ANC also appeared as a party in opposition at the hearings. While recognizing the many positive aspects of the project, the ANC's opposition was based on: (i) the taking of approximately 15 existing private homes by eminent domain; (ii) the absence of a final and operational Community and Supportive Services Program to equip the residents with the necessary tools to assure their ability to return to their homes; and (iii) the excessive density of the overall project.

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7. ANC 6B submitted a report and testified at the hearing as an affected ANC due to its immediate adjacency to the PUD project. ANC 6B voted to support the consolidated PUD but withheld support for the preliminary PUD pending further clarification of certain concerns. ANC 6B voiced its concern over the possible isolation of the neighborhood and the apparent lack of open space within the heart of the site. The ANC also expressed its uncertainty over the amenities package as it related to the recreational facilities provided by the new Marine Barracks nearby. Similarly, ANC 6B argued that the construction and operation of a proposed community center was not adequately defined. Finally, the ANC urged that the heights of the commercial buildings along M Street were too tall and would overshadow the smaller Van Ness School, the new small-scale rowhouses of the PUD, and the nearby low-rise buildings along 8<sup>th</sup> Street, which has a 45-foot height restriction due to the 8<sup>th</sup> Street Overlay.
8. Persons in support of the application included the Capper Carrollsburg On-the-Hill Community Development Corporation ("CDC"), the Carrollsburg Resident Council, Arthur Capper Senior Resident Council, and 20 individuals currently residing in the Capper/Carrollsburg housing.
9. David Meadows, a property owner residing at 305 K Street, S.E., which is located within the preliminary PUD boundaries and is identified for acquisition by DCHA, initially requested to appear as a party in opposition to the applications. He subsequently withdrew his request and elected to testify as a person in opposition.
10. Other persons appearing in opposition to the consolidated and preliminary PUDs included St. Paul's AUMP Church, the Committee of 100 on the Federal City ("Committee of 100"), the Capitol Hill Restoration Society, Debra Frazier on behalf of the Friends and Residents of Arthur Capper/Carrollsburg, Agnes Taylor, Olena Oliphant, Burnetta Coles, Richard Wolf, Brother Chris, Paul Pumphrey, and Amil Mohammed.
11. As a preliminary matter, the Capitol Hill Restoration Society ("CHRS") sought dismissal of the applications on the ground that they were not signed by each owner of property included in the area to be developed, as required by 11 DCMR § 2406.5. The applications include 15 private properties in the preliminary PUD application for which the owners' signatures were not obtained. DCHA intends to acquire these 15 properties through a negotiated sale or eminent domain proceedings. CHRS asserted that the lack of required signatures rendered the applications incomplete, and therefore that they should be dismissed pursuant to § 2406.3.
12. Based on the advice of the Office of the Corporation Counsel, the Commission finds that it may proceed with a preliminary PUD application involving privately owned property that a government agency intends to acquire by negotiated sale or eminent domain, because an owner's rights will not be affected by preliminary approval. However, the

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second stage PUD may not be processed without the required signatures of all affected private property owners.

13. The Applicants and the D.C. Department of Housing and Community Development ("DHCD") requested a waiver of the hearing fees for the applications. Under § 3042, the Commission may grant a request from DHCD to waive the normal hearing fee to permit the construction of a low- or moderate-income subsidized housing development, defined as "a housing development that receives funding from a recognized District of Columbia or federal government housing subsidy program." In support of their request, the Applicants stated that the subject development has been awarded funding from HUD through the HOPE VI program, and DCHA is playing a major role in the development, which is itself a major component of city-sponsored efforts to create a major new center along the Anacostia Waterfront.
14. The Applicants calculated the hearing fee for the project as \$50,000 for the residential portion and \$77,100 for the non-residential portion (\$75,300 for the office and retail component and \$1,800 for a new community center), for a total of \$127,100 for the PUD applications. A separate hearing fee charged for the map amendment application is \$28,595. Pursuant to § 3041.5, however, in the case of an application combining two or more actions, the fee charged is the greatest of all the fees computed separately; or in this instance, \$127,100.
15. The Commission finds that a waiver of the entire hearing fee is not appropriate, because a significant portion of the proposed PUD consists of commercial office space and market-rate housing. Waiver of the fee applicable to the residential portion (i.e. \$50,000) is appropriate in light of the fact that the PUD will include 695 public housing units and 50 home-ownership units receiving funding from the Housing Choice Voucher program spread throughout the project. However, the Commission finds that waiver of the hearing fee is not appropriate with respect to the nonresidential portion of the proposed PUD, and therefore directs the Applicants to pay a hearing fee of \$77,100.
16. At its public meeting on December 8, 2003, the Commission took proposed action by a vote of 4-0-1 to approve, with conditions, the applications and plans submitted into the record.
17. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by report dated January 8, 2004, concluded that the proposed first-stage and consolidated PUDs would not adversely affect the federal interests and were consistent with the Federal Elements of the Comprehensive Plan for the National Capital, except that Senior Housing Building 2 would place a blank wall above the ground floor along M Street, S.E., an identified Special Street in the Preservation and Historic Features Element of the Plan.

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18. The Commission directed the Applicants to submit a revised design for the Senior Building planned for Square S-825, on the north side of M Street between 4<sup>th</sup> and 5<sup>th</sup> Streets. By submission dated February 3, 2004, the Applicants provided an alternate proposal for the M Street façade utilizing split-faced CMU material on the lower portion of the former blank wall and EIFS on the upper portion.
19. The Zoning Commission took final action to approve the application in Case No. 03-12 on January 12, 2004, by a vote of 4-0-1. The Zoning Commission took final action to approve the application in Case No. 03-13 on February 6, 2004 by a vote of 4-0-1.

### **The PUD Project**

#### Overview

20. The proposed PUD is intended to replace and redevelop the Arthur Capper/Carrollsborg complex, a severely deteriorated public housing project. The new mixed-income, mixed-use development will be composed of approximately 1,650 residential units, including 707 public housing replacement units; and approximately 732,000 square feet of commercial space, of which approximately 30,000 square feet will be devoted to first-floor retail uses and the balance will be office space. Approximately 21,000 square feet of additional neighborhood retail space will be located in high-rise residential buildings along 2<sup>nd</sup> Street. The PUD site will have an aggregate density of approximately 2.21 floor area ratio ("FAR").
21. The concept for the PUD project was developed in conformance with design guidelines for the area established in conjunction with the District of Columbia Office of Planning ("OP"). Standards were created for building height and programs, building lines, and urban design to help redevelop the Capper/Carrollsborg site and the adjacent M Street corridor in a complementary, coordinated fashion.
22. The site is presently improved with the Arthur Capper Senior Building and Family Dwellings and the Carrollsborg public housing complexes for families and senior citizens. The Carrollsborg complex includes the Carroll Apartments at 410 M Street, S.E. and the Carrollsborg Dwellings at 400 L Street, S.E. The Carroll Apartments, a 60-unit high-rise facility for elderly residents, will remain. The Carrollsborg is a complex of 28 two- and three-story townhouses containing 314 units. Surrounding the Carrollsborg complex is the Arthur Capper Development, which consists of 96 townhouse units, a nine-story senior building, and the former Arthur Capper mid-rise buildings, three of which have been demolished.
23. The Generalized Land Use Map of the Comprehensive Plan has designated the area a Housing Opportunity Area to encourage affordable residential redevelopment. The redevelopment plan provides for the replacement, on a one-for-one basis, of all the public

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housing units that will be demolished. Thus, there will be no diminution in the stock of available public housing units as a result of the PUD.

24. The site also includes a Department of Public Works ("DPW") facility on New Jersey Avenue and I Street, S.E., the Canal Blocks Park, the Van Ness Elementary School, and several privately owned properties in Squares 799 and 800, which DCHA intends to acquire.

#### Description of Surrounding Area

25. The area surrounding the PUD site is characterized by a mixture of uses. To the south and west are new commercial office buildings, the Washington Navy Yard, the site of the Southeast Federal Center, and the proposed new headquarters of the U.S. Department of Transportation. Portions of the area, particularly to the west, are underutilized and consist of vacant land or abandoned industrial or manufacturing structures. The 8<sup>th</sup> Street corridor is located to the east, a north-south axis that terminates at the Navy Yard entrance. Several medium-density commercial and industrial buildings line 8<sup>th</sup> Street, including entertainment and auto-related uses, many of which are in disrepair. The Southeast-Southwest Freeway and Virginia Avenue act as the northern boundary of the site, with the Capitol Hill neighborhood lying to the north.

#### Proposed Redevelopment Under the HOPE VI Program

##### Existing Conditions

26. The existing Arthur Capper/Carrollburg Dwellings were constructed in the early 1940's as part of a major urban renewal effort that included the Ellen Wilson Dwellings to the north. Over the years, the public housing complex has deteriorated to a point beyond any further practical use. The properties are economically and functionally obsolete. In an effort to revitalize this residential complex into a stable, mixed-income community, DCHA sought assistance from the HOPE VI program.

##### The HOPE VI Program

27. The HOPE VI program requires each grant request to include a Community and Supportive Services Program ("CSSP"), which is intended to promote self-sufficiency for lower-income families. The CSSP represents \$29 million (\$3.5 million from the HOPE VI grant and \$25,697,953 from private sources) in services to public housing and other low-income residents of the community. Services to be provided include day care, adult literacy and GED, computer training, and health care. Case management services will allow each participant to have an individual service plan devoted specifically to the participant's needs. Participation in the CSSP is a requirement for public housing

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residents to gain readmittance to the community, unless otherwise exempted because of age, disability, or current full time employment.

28. The HOPE VI grant for Capper/Carrollsborg is \$35 million. Because of the market value of the land, DCHA anticipates replacing all 707 public housing units slated for demolition.
29. The Applicants testified that, while the \$35 million grant from the HOPE VI program is substantial, that amount alone would not be enough to replace the 707 public housing being demolished. Using a conservative estimate of \$100,000 per unit as a replacement cost, total replacement would require over \$70 million, roughly twice the grant amount. Therefore, the ability to leverage other public and private resources is important, not only to preserve public housing and affordability but also to establish a mixed-income community with the requisite amenities. A critical element of that leveraging is the ability to maximize the market value of the underlying land – that is, maximizing the appropriate development potential under the PUD standards of the Zoning Regulations. According to the Applicants, although the project financing is complex, the concept is simple: HOPE VI dollars, plus proceeds from the sale or lease of land, and the investment of private capital for the nonresidential uses will provide the necessary funding to subsidize the one-for-one replacement of the public housing. The Applicants will use the value of the land's development potential to leverage another \$400 million in public and private investment.

### Description of Project Components

#### Western Portion of Site: High-Rise Apartments and Office Building

30. Under the preliminary PUD approval process, the Applicants propose to develop the western portion of the PUD site along 2<sup>nd</sup> Street, S.E., the former location of the city canal, with high-rise rental and condominium buildings and a commercial office structure. In order to achieve the desired height for these buildings, the Applicants request a PUD-related map amendment to rezone this portion from R-5-B to CR. Square 767 to the north will be redeveloped with a six-story (65-foot) apartment building containing approximately 147 units, with 6,000 square feet of retail uses... Immediately south in Square 768, the project will consist of an 11-story (110-foot) apartment house containing 295 units and 6,000 square feet of neighborhood-serving retail uses. A condominium building consisting of 107 units will be located in the northern half of Square 769, with 3,000 square feet of retail space. The southern portion of that same square will be improved with a 10-story office building with first-floor retail containing a total of 236,000 square feet of gross floor area.

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31. The Commission questioned the appropriateness of including Square 739, which includes a portion of Reservation 17-A, and the portion of Canal Street that bisects the square, in the preliminary PUD, because use of Square 739 might have been restricted to a garbage disposal facility pursuant to a transfer of jurisdiction from the U.S. government to the District of Columbia. The Transfer of Jurisdiction plat recorded in the Surveyor's Office does not appear to place any restriction on the use of the property. However, other documents provided by the National Park Service ("NPS") indicate that the transfer was made for the purpose of allowing the District to use the property as a trash transfer site. NPS has indicated that an amendment to the transfer instrument or the execution of a new transfer will be required if the property is to be used for housing. NPS also has indicated that, subject to completion of the requisite process, NPS had no objection in concept to the uses proposed. Thus, the Commission finds that, subject to completion of appropriate documentation prior to the filing of a second-stage PUD application, the District may appropriately propose to use Square 739 for public and market-rate housing as contemplated under the preliminary PUD.

Central Portion of Site: Low-Rise Residential and Senior Buildings

32. In the center portion of the PUD site, the Applicants propose to construct three- and four-story rowhouses. Some of these units will be offered for sale and others will be made available for rent, at either market rate or at subsidized levels. Square 797 will consist of four groups of buildings totaling 47 single-family row dwellings. Square 798 will provide a total of 75 single-family rowhouses arranged in five groups. Square 824 will consist of 41 rowhouses also arranged in five clusters. Square 825 will provide 57 row dwellings, and the northern half of Square 825S will include 13 town houses. All of the proposed dwellings in Squares 797, 798, 824, 825, and 825S are included in the consolidated PUD application. The remainder of the row dwellings, which will be located in the northern half of Square 800 and the northern half of Square 882, and which will total approximately 121 single-family units, were submitted for consideration under the preliminary PUD application.
33. The central portion of the site will also include two apartment complexes devoted exclusively to senior citizens. A four-story building located in the southern portion of Square 825S will add approximately 138 new units to the existing 64-unit senior building, while a four-story building in Square 880 will contain approximately 162 units. The senior building in Square 880 will also include a geriatric health clinic. Both senior buildings were submitted for review under the consolidated PUD approval process. The Applicants have begun pre-development activities for the building in Square 880 to construct that building on an expedited basis as a matter-of-right and in conformance with the existing R-5-B zoning on the site. The Applicants are proceeding on this basis in order to provide relocation units to residents displaced from the current public housing complex. Thereafter, the lot on which this structure is located will be subdivided into

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two new record lots pursuant to an agreement with the U.S. Marine Corps, which owns the adjacent land in Square 880. Upon subdivision, the new senior building would exceed the R-5-B density requirements on its lot. Thus, the Applicants have included this building in the consolidated PUD proposal in order to allocate the density with other properties in the PUD and bring the building into compliance on the future, smaller lot.

East Portion of the Site: Public Uses and Commercial Office Development

34. Two office buildings will be constructed in the southern portion of Square 882 and will provide economic support for the one-for-one replacement of public housing units. Approximately 15,000 square feet of the total gross floor area of the buildings will be devoted to retail uses on the ground floor. The Applicant proposed a height of 110 feet for the commercial buildings in Square 882, which part of the preliminary PUD approval application. The Commission finds that 110 feet in height is excessive for this location, especially considering its proximity to the lower buildings along 8<sup>th</sup> Street. A maximum height of 90 feet is appropriate for commercial buildings along M Street in Square 882 to provide a transition between the lower scale of 8<sup>th</sup> Street and the higher density development along New Jersey Avenue.
35. The east side of 5<sup>th</sup> Street between L and M Streets in Square N853 is the site of the Van Ness Elementary School, which is included in the PUD.

Canal Blocks Park

36. In coordination with DPW, the Applicants propose to improve the former canal parcels known as Reservations 17B (Square 767, Lot 829), 17C (Square 768, Lot 810), and 17D (Square 769, Lot 821). These blocks are currently used to house city school buses. The buses will be removed and the Applicants will grade and seed the land in preparation for the creation of a new urban park to support the neighborhood and serve as a link between Capitol Hill and the Southeast waterfront.
37. The Canal Park Development Association ("CPDA"), a non-profit entity authorized by Act of Congress, was established to work in a joint public/private partnership with the Government of the District of Columbia for the purpose of promoting, fundraising, designing, constructing, and maintaining the Canal Blocks Park. Current board members of CPDA include representatives of William C. Smith Co. and Spaulding and Slye Colliers on behalf of four of the nine separate owners of land contiguous to the Canal Blocks Park. Membership is open to representatives of the remaining contiguous landowners, as well as public entities actively participating in the revitalization of the District's near Southeast neighborhood. CPDA has received commitments to join the board from the JBG Companies, as developer of the U.S. Department of Transportation headquarters, and Capper/Carrollburg Venture, LLC.

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38. CPDA has received \$5.46 million to date in contributions and commitments for the Canal Blocks Park. CPDA has deposited \$2.5 million in funds received from Congress through the Fiscal Year 2003 Appropriations Act (P.L.108-7). The JBG Companies has pledged \$2.5 million for development of the Canal Blocks Park. William C. Smith Co., Inc., in conjunction with the development of four parcels contiguous to the Canal Blocks Park, has pledged \$325,000 to CPDA. Mid City Urban LLC and Forest City Enterprises, through their participation in Capper/Carrollburg Venture, LLC, have pledged \$137,000 to CPDA. The Office of Planning has committed an unspecified amount through a matching grant to hold a public design competition.
39. Several studies have been conducted for the development of a park along the former canal area, and the Applicants will work with the District and other interested parties to bring the plans to fruition. After the transfer of Square 739 from DPW to DCHA, the Applicants will also develop a mid- to high-rise residential building on this site.

#### Project Design

40. The PUD project was designed to achieve a high-quality composition of commercial, retail, and residential uses in a cohesive urban setting. The project fulfills the design goals and objectives established by OP and the Applicants pertaining to building height and programs, building lines, and urban design elements for each segment of the project (the "Guidelines").

#### Preliminary PUD Approval: Commercial Buildings in Squares 769 and 882

41. The Applicants' architect testified that one of the primary urban design goals for the PUD project was to continue the M Street corridor as the primary mixed-use segment of the neighborhood and of the larger district within which it is located. A key element to achieve this goal is to maintain building edges and established street walls, particularly in relation to the existing office building in Square 800, and to ensure that retail and lobby spaces meet the well-defined edges. The Guidelines recognize the importance of the intersection of 2<sup>nd</sup> and M Streets as a significant place that establishes both the termination at M Street of the former canal reservations and a gateway to the park envisioned for the canal blocks.

#### Preliminary PUD Approval: High-Rise Residential Buildings at the Canal Blocks

42. The Guidelines identify the Canal Park as the most significant spatial focus within the neighborhood plan. This space will serve as an open green area within the urban pattern of buildings and streets, in deference to the L'Enfant Plan. Buildings fronting on this space must be carefully designed to define both physically and spatially the former canal reservations. At the same time, the new mixed-income apartments that will border the

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east side should make a transition from the high-rise intensity of M Street to a more moderate height to the north that will complement the adjacent Capitol Hill neighborhood and its rowhouse character. Consistent with these goals and objectives, the residential buildings in Squares 767, 768, and 769 were designed to respect their important location on the canal blocks through appropriate heights, building lines, façade organization, and materials. The façade of the buildings fronting on the Canal Park will be expressed in tripartite organization, with the base rising two stories in height and expressing the retail functions, the middle portion articulating the residential uses of the building, and the top two stories defining a cap to the building through cornice lines or other architectural devices. Balconies, pilasters, and other elements will be introduced to the facades of the buildings to create a three-dimensional quality. Buildings will be faced in brick, stone, concrete, metal or glass to maintain a superior architectural quality.

Preliminary and Consolidated PUD Approval: Low-Rise Residential

43. A major design objective for the low-rise residential buildings under the Guidelines is to create a cohesive urban community that reflects the diversity of architectural styles and forms found in the adjacent Capitol Hill Historic District. The low-rise buildings will incorporate the successful patterns and identifying characteristics of Washington rowhouse development in the new building designs to produce recognizable but distinct features for the Carrollsborg neighborhood. Constructed to heights of three and four stories, the majority of the row dwellings will be built to the front lot lines in order to maintain the street walls, with intermittent setbacks to avoid monotonous patterns. Six basic styles will be introduced throughout the development, which will correspond to the hierarchy of streets in the neighborhood.

Consolidated Approval: Senior Residential Buildings

44. The Senior Building contemplated for Square 880 will be a courtyard structure abutting Virginia Avenue, 5<sup>th</sup> Street, K Street, and the Marine Barracks parade ground. The size and scale of the building is appropriate to the many other institutional structures located north and south of Virginia Avenue.
45. The Senior Building on Square 825S is adjacent to the existing 60-foot tall senior building owned by DCHA. The addition will be 45 feet in height and will establish a transition between the 410 M Street structure and the new single-family structures to the north.

Existing and Proposed Zoning

46. The majority of the subject site is located in the R-5-B district, with a portion of Square 769 located in the C-3-C district. The R-5-B district is a moderate height and density zone that permits all types of urban residential development, including single-family

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dwellings, semi-detached houses, row dwellings, and apartments. The maximum height permitted in the R-5-B district is 50 feet with no limitation on the number of stories. Residential development may achieve a maximum density of 1.8 FAR. The C-3-C district is a medium-high density commercial area designed for office, retail, housing, and mixed-use developments. Buildings may be constructed to a height of 90 feet, and achieve a density of 6.5 FAR for residential or commercial uses, with a total maximum density of 6.5 FAR for any development.

47. The Applicants requested a PUD-related map amendment to rezone from R-5-B to CR the entirety of Squares 767 and 768; the northern half of Square 769 between 2<sup>nd</sup> and 3<sup>rd</sup> Streets, beginning 145 feet north of M Street; and the southern portion of Square 882 along M Street for a depth of approximately 145 feet. The CR district is a mixed-use area designed to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses. The maximum height in the CR district is 90 feet. The density for all buildings and structures on a lot may not exceed 6.0 FAR, with not more than 3.0 FAR devoted to non-residential uses. Additionally, the CR district requires provision of an area equivalent to 10 percent of the total lot area as open landscaped space available for use by the general public on a continuous basis.

#### **Development Incentives and Flexibility**

48. The Applicants request the following areas of flexibility from the R-5-B requirements and PUD standards:
- a. 0.71 FAR increase (all residential) in gross floor area over existing matter-of-right development, which is below the 3.0 FAR allowed under the PUD guidelines;
  - b. aggregation of FAR and lot occupancy; and
  - c. waiver of sideyard setback for one lot in Square 824.

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

49. The following benefits and amenities will be created as a result of the PUD project:
- a. *Housing and Affordable Housing.* The single largest benefit to the area, and the city as a whole, is the creation of a new mixed-income, mixed-use community replacing a severely distressed public housing developments. The one-for-one replacement of public housing units will maintain affordable housing opportunities, and the infusion of market-rate housing will bring middle-income families to an otherwise economically depressed area. Redevelopment of the

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area, including the replacement of public housing, will complement other revitalization activities planned and underway in this area.

- b. *Urban Design and Architecture.* The project includes a collection of mixed-use buildings sensitively designed to complement the surrounding large-scale commercial buildings along M Street and to respect the low-rise cohesive rowhouse character of the Capitol Hill neighborhood. The overall composition reinforces the broad and lively elements of the M Street corridor and creates a boundary-defining urban wall for the public spaces along Canal Park. Single-family and multi-family dwellings will be developed in a diversity of styles and materials selected to ensure compatibility and quality commensurate with the surrounding area. The development contains both affordable and market-rate units with no distinction in external design character between the two.
- c. *Landscaping and Open Space.* Another aspect of the project of special value to the neighborhood is the clearing of land along the western edge of the site in preparation for the creation of a new urban park.
- d. *Transportation Features.* The proposed PUD project meets or exceeds the off-street parking and loading requirements of the Zoning Regulations. The project includes a total of 1,645 dwelling units in single-family and multi-family configurations; a total of 1,430 parking spaces will be supplied for those units. A total of 550 off-street parking spaces will be devoted to the 732,000 square feet of commercial uses included in the project. Loading berths will be included for all multi-family and commercial uses in accordance with the Zoning Regulations, as shown on the architectural drawings. The project also includes several new roadway features: (i) a new north-south public street, to be designated as a continuation of 6<sup>th</sup> Street, S.E. will be introduced in Square 882 as a private street; (ii) a portion of L Street between the former canal reservations and 3<sup>rd</sup> Street will be re-opened; and (iii) a new private street will be created for the townhouse developments in Squares 798 and 799. The Applicants also anticipate that I Street will be extended west through Square 739 by other future development to establish the grid street system characteristic of the L'Enfant Plan. With the exception of the new 6<sup>th</sup> Street, the new streets will be dedicated for public use either by easement or as open streets on the Highway Plan. The new street patterns, together with new traffic signals and stop signs, will enhance the transportation qualities of the proposed project.
- e. *Social Services and Other Uses of Special Value to the Neighborhood.* The proposed PUD will provide CSSP activities contemplated as part of the HOPE VI grant, such as day care, adult literacy, computer training, and other services aimed at helping neighborhood residents achieve self-sufficiency. The proposed PUD

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also includes two senior-citizens buildings, one of which will house a geriatric health clinic.

- f. *Employment and Training Opportunities.* The proposed PUD will provide a number of employment and training opportunities during construction and operation of the development. The Applicants, in partnership with the resident-based Capper Carrollsborg-on-the-Hill CDC, will program and implement Section 3 employment, training, and contracting elements in order to take full advantage of the construction, service, and operational requirements of the redevelopment. The goal of the federal Section 3 Program is to create meaningful contracting and job opportunities for minority and disadvantaged small businesses and individuals from the area being redeveloped. It is contemplated that long-term employment opportunities will accrue in the workforce development associated with the 732,000 office and retail space, and the additional 21,000 ground floor retail space along the former canal blocks. The project will provide employment training opportunities through a Local, Small and Disadvantaged Business Enterprise ("LSDBE") Agreement and a First Source Agreement.
- g. *Neighborhood Oriented Retail and Service Uses.* The PUD project includes neighborhood-oriented retail and service uses to support the residential community. Approximately 21,000 square feet of neighborhood retail space will be located in high-rise residential buildings along 2<sup>nd</sup> Street, S.E.
50. The Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities, and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing and affordable housing, social services, job training and employment opportunities, and transportation measures.

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

51. Under the PUD regulations, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." 11 DCMR § 2403.8. Given the level of project amenities and public benefits, the Commission finds that the development incentives are appropriate to increase the overall residential density by 0.71 FAR, to permit a height of 110 feet along the east side of the Canal Blocks Park and for the 250 M Street office building, to allow the aggregation of lot occupancy and density over the entire project site, and to waive the sideyard requirements for one lot.

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

52. The Project is not inconsistent with the Comprehensive Plan as follows:

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- a. The Generalized Land Use Map for the District of Columbia designates the 14-block area that is the subject of the PUD for residential and commercial land uses. The eastern portion of the site is designated for medium-density residential uses, which is characterized predominantly by multiple-unit housing and mid-rise apartment buildings but which also may include low- and moderate-density housing. The western portion of the site along 2<sup>nd</sup> and M Streets, S.E., is designated for medium high-density commercial uses, where the predominant use is a shopping and service area that generally offers the largest concentration and variety of goods and services outside the Central Employment Area. The block bounded by 5<sup>th</sup>, 6<sup>th</sup>, K, and L Streets, S.E., is designated as a District government park, recreation or open space area.
- b. The PUD project is consistent with these land use categories through its provision of low, moderate-, and medium-density residential uses in the eastern two-thirds of the project site, and commercial office and retail development along 2<sup>nd</sup> and M Streets, S.E. The overall density will be 2.21 FAR. The Generalized Land Use Map designates the site as the Capper/Carrollsborg Housing Opportunity Area (Area No. 14).
- c. The project meets the policies of the Housing Element by stimulating a wide range of housing choices through the production of new units for a variety of household types, including the extension of affordable homeownership opportunities to low- and moderate-income households and the provision of housing assistance to low- or fixed-income homeowners. The proposed PUD will not only replace obsolete, non-functional housing with modern dwellings, but will provide one-for-one replacement of public housing units demolished in connection with the redevelopment.
- d. The proposed PUD fosters the Economic Element by revitalizing the M Street, S.E., corridor with commercial office space for businesses attracted to the area by the Southeast Federal Center immediately south of the site and its anticipated major tenant, the U.S. Department of Transportation. The mixed-income housing will enhance and stabilize the residential neighborhood, while the CSSP activities will provide for economic development and self-sufficiency programs that promote the economic development policies of the Comprehensive Plan to prepare its labor force with the education and occupational skills to participate effectively in the District's economy and to provide affordable, quality child care for parents to enable them to work, seek employment, complete school, and participate in job training programs.
- e. The PUD project enhances and supports the Urban Design Element of the Comprehensive Plan through the replacement of the existing barracks-style public

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housing complex with a mixed-use, mixed-income community patterned on neighboring Capitol Hill. The new neighborhood plan respects features of the L'Enfant Plan, including the Cartesian street grid from 2<sup>nd</sup> to 7<sup>th</sup> Streets and M Street to Virginia Avenue, establishing a street volume and building massing in keeping with the District's urban character. The L'Enfant Plan street grid will also be enhanced by the introduction of a new public street, 6<sup>th</sup> Street north of M Street, and by beginning the transformation of the former canal right-of-way at Reservations 17 B, C, and D from their current use as a bus parking lot to a passive park. The proposed redevelopment will establish a positive image for the former distressed public housing community.

- f. The proposed PUD meets the goals of the Land Use Element by eradicating urban blight created by deteriorated public housing and replacing it with higher-quality residential units of varying types in the Capper/Carrollburg Housing Opportunity Area. The design of the proposed development will enhance and revitalize this residential segment of Ward 6, thereby stimulating new development and job opportunities.
- g. The PUD fosters the policies of the Transportation Element and makes the proposed development attractive in terms of access and internal circulation. The development site is easily accessible via M and South Capitol Streets as well as other major roadways that provide access to Downtown and to the broader metropolitan region. The site is situated in close proximity to the Navy Yard Metrorail Station and along several bus routes. There are several nearby existing and planned employment centers, including the Capitol Hill area, the Navy Yard, and the proposed Southeast Federal Center. Several schools and community-serving facilities are located within the immediate area as well. Finally, the proposed development will include local-serving retail and a new community/day care center. Together these factors will significantly reduce the trip generation and related impacts of the proposed development, particularly during the morning and afternoon peak travel periods. The introduction of new private and public streets to serve the residential enclave will also help separate local traffic from through traffic within residential neighborhoods and complete segments of the street system necessary for smooth traffic flow. Sufficient parking is provided by the approximately 2,000 off-street parking spaces and approximately 480 on-street spaces proposed in the PUD area. The parking spaces will be distributed adequately to serve the projected demands for the various land uses. The roadway improvements planned for the development area will enhance vehicular and pedestrian access, circulation, and safety.
- h. The PUD project is consistent with the Ward 6 Element in the following ways:

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- (i) The proposed PUD furthers the Ward 6 Economic Development Element through the introduction of new commercial office space and retail services along the M Street corridor to support the mixed-use neighborhood. The proposed development will also stimulate economic activity by attracting new businesses and households to the area.
- (ii) The PUD project directly supports and achieves objectives of the Ward 6 Housing Element by replacing the existing severely deteriorated, obsolete public housing units at Capper/Carrollsborg with a new residential development that mirrors the variety of housing types in Ward 6. The HOPE VI project will enhance neighborhood stability through home-ownership opportunities and units geared toward a mix of income levels. The replacement of units on a one-to-one basis further achieves the goals of the Ward 6 Plan by maintaining the number of public housing units available to low- and moderate-income families.
- (iii) The proposed PUD meets the objectives of the Ward 6 Transportation Element through traffic management measures that include the creation of new public and private streets to serve the residential enclaves with appropriately located traffic controls throughout the PUD site. The abundance of on- and off-street parking spaces and the close proximity of public transportation will encourage the smooth flow of traffic to and from the residential, commercial, and retail nodes of the development.
- (iv) The plan and design of the proposed PUD responds to the Ward 6 Urban Design objectives through residential design derived from other structures in the vicinity so as to preserve the character of the neighborhood. The incorporation of various design elements into street elevations continues the diversity that is an integral part of Capitol Hill townhouse blocks. The design features will be complemented and enhanced by building materials, including brick and siding in a variety of colors. The new Senior Building that abuts Virginia Avenue on Square 880 is similar in mass and scale to the many institutional buildings located along its length within Capitol Hill. The articulation of the building's design is consistent with the overall architectural vocabulary of the neighborhood. Conversely, the new Senior Building along M Street, adjacent to the existing apartment building at 410 M Street, S.E., adopts a more modernist language. The careful placement of the various building types and programs ensures a compatible relationship between commercial and residential uses. The new office building at the corner of 2<sup>nd</sup> and M Streets, including approximately one-third of the new commercial space, will abut a new 110-foot residential building. Design guidelines for both buildings, as well as a public alley

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that separates them, ensure an appropriate relationship between the two buildings.

The PUD includes the comprehensive reconstruction of streetscapes within the project boundaries in support of a primary urban design goal of the Ward 6 Comprehensive Plan. Improvements to existing residential streets include the replacement of existing sidewalks, trees, lights, and grass strips. Improvements also include a variety of designs for the front yard space between the sidewalks and the new rowhouses. The variety and quality of the front yard areas will endow the new streetscapes with the character typical of those found in the rowhouse neighborhoods of the Capitol Hill Historic District, which will constitute a substantial improvement over the deteriorated and institutional character of existing streets. The maintenance of a significant portion of the new front yard spaces, specifically those associated with public housing rental units, by a private management company will ensure a high standard of safety, security, and quality of appearance in the public spaces in the future. The community association for the townhouses will maintain the landscaped areas within its residential development area, thereby ensuring the attractive appearance of all segments of the PUD.

- (v) The proposed PUD meets the objectives of the Ward 6 Land Use Element by replacing obsolete and severely deteriorated public housing units with modern new facilities on a one-to-one ratio, thereby maintaining the general level of residential uses and densities. The rowhouses, apartment buildings, and commercial office structures all mirror the existing heights of corresponding building types in the immediate vicinity of the project site and Ward 6 in general.

### Office of Planning Report

- 53. By report dated July 16, 2003 and through testimony presented at the public hearing, the Office of Planning recommended conditional approval of the PUD. OP strongly supported the applications and found that the proposed PUD is not inconsistent with the Comprehensive Plan and the Generalized Land Use Map. While noting that the Map does not clearly designate the PUD areas for mixed uses, OP concluded that, when viewed as a whole, the PUD achieves the type and scale of uses the Land Use Map supports for this area. The Commission concurs in this assessment. The Generalized Land Use Map adopted as part of the Comprehensive Plan shows that most of the PUD is included in the medium-density residential land use category. The DPW site at New Jersey Avenue and I Street and the southern half of the blocks between L and M Streets and 2<sup>nd</sup> and 3<sup>rd</sup> Streets are included in the medium-high density commercial category.

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The site of the recreation center is included in the parks, recreation and open space category. The Generalized Land Use Map includes the project area in a housing opportunity area. The proposed Project is consistent on an overall basis with these land use designations. The overall density for all residential uses on all the property included is 2.28 FAR, which falls between the matter-of-right levels of the R-5-B and R-5-C districts. The overall density for all retail and office uses on all the property included is 0.83 FAR, less than the matter-of-right density in the lowest density commercial zone. That density is concentrated in two locations, along the Canal Blocks Park and along M Street across from the Navy Yard.

54. OP further concluded, and the Commission finds, that the location of the two office buildings proposed for Square 882 are also not inconsistent with the Comprehensive Plan. The office buildings are logically located along the M Street corridor as a result of the commercial development that has already begun to line M Street and the proposed office development at the Southeast Federal Center.
55. OP testified that the project is otherwise not inconsistent with the major themes and elements of the Comprehensive Plan, and stated that the PUD provides an "almost textbook example" of how a PUD is supposed to function in that the PUD employs zoning incentives in certain locations while at the same time respecting the existing zoning's average density. The Commission concurs in OP assessment.
56. OP conditioned its approval on the following:
  - a. Vesting of the consolidated PUD prior to approval of the second-stage PUDs;
  - b. The Applicants' submission of a table and plans demonstrating parcel-by-parcel compliance of the consolidated PUD with the Zoning Regulations and any relief needed;
  - c. Clarification of the CSSP and similar funding the Applicants or other agents will provide to future PUD residents in excess of the support services currently provided to Capper-Carrollsbury residents;
  - d. Provision of decks with a minimum depth of six feet, instead of the proposed four-foot depth, wherever possible;
  - e. Completion of detailed arrangements for public access to playing fields on Reservation 19-A prior to approval of any second stage PUDs;
  - f. Clarification of the Applicants' direct and in-kind contributions to the Canal Blocks Park, exclusive of land value;

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- g. Provision of granite curbing and brick gutters for both sides of the eastern section of 2<sup>nd</sup> Street between I and M Streets, the new 3<sup>rd</sup> Place and all other new private streets, and any public streets that require reconstruction due to the impact of the PUD's development;
- h. The Applicants' receipt of approval from the District Department of Transportation ("DDOT") for location of the new private street, 6<sup>th</sup> Place;
- i. Provision of additional information concerning agreements with the CDC on pre-apprenticeship and other skill-building programs for neighborhood residents; and
- j. Provision of 14-foot floor-to-finished-ceiling heights for all ground floor spaces programmed for retail use in the CR zone.

57. In response to OP's recommendations, the Commission finds as follows:

- a. Vesting of the consolidated PUD before approval of the second-stage PUD will help ensure that the PUD does not languish. The Commission finds it appropriate to require that the Applicants not file an application for second-stage approval until the covenant for the consolidated PUD has been recorded.
- b. The Applicants have provided, through the testimony of their expert in land planning and in their post-hearing submission, sufficient clarification of the parcel-by-parcel compliance of the consolidated PUD with the Zoning Regulations. The Applicants have requested flexibility from the R-5-B standards to allow for an aggregation of density and lot occupancy and a waiver of the sideyard setback for one lot in Square 824. The Commission finds this minor flexibility appropriate in order to accomplish the laudable goals of this project.
- c. The Applicants provided, in their post-hearing submission dated August 14, 2003, clarification of the CSSP and similar funding in excess of the support services currently provided to Capper/Carrollburg residents. The HOPE VI program allows allocation of up to 15 percent of the grant for CSSP activities, or in this instance \$3.5 million. This amount serves to leverage additional in-kind services at a projected value of \$25.7 million from 40 different organizations for services including job readiness and skilled training programs; community empowerment; business development for entrepreneur start-ups; GED attainment; youth education and recreation; homeownership; senior services; family services; regular community events; exercise and recreational programs; meal services; utility payment assistance; transportation services for senior citizens; and access to health insurance.

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- d. The Applicants will provide decks with a minimum depth of six feet on each public housing unit, except on certain corner units where decks are not possible. The market-rate housing will include decks with a minimum depth of four feet, except on certain corner units where decks are not feasible.
- e. The Applicants have agreed to provide detailed arrangements for public access to playing fields on Reservation 19-A before the approval of any second-stage PUD.
- f. The Applicants have provided clarification of the contributions to the CPDA, as described in Finding Nos. 36 and 37.
- g. The Applicants' baseline streetscape section is a concrete curb and gutter, a five-foot planting strip behind the curb, and a six-foot concrete walk. Certain enhancements will be made to M Street and 2<sup>nd</sup> Place, two special streets within the PUD, where exposed aggregate concrete, concrete pavers, London pavers, or brick pavers will be used. The Applicants have committed to provide enhancements to the baseline materials should the budget allow, first to 3<sup>rd</sup> Place, and then to 3<sup>rd</sup> and 4<sup>th</sup> Streets, respectively. The Applicants will also continue discussions with DDOT for the second-stage PUD on the necessary street repair/repaving, and will replace materials in-kind as a result of any damage during construction, consistent with the DDOT standards. The Commission finds that these streetscape improvement efforts are appropriate for the proposed PUD.
- h. The Commission concurs that the Applicants should, as part of their continuing discussions with DDOT, coordinate on the appropriate location for the new private 6<sup>th</sup> Place.
- i. Through their post-hearing submission, the Applicants provided additional information on the pre-apprenticeship and skill-building programs for neighborhood residents to be coordinated by the CDC.
- j. The Commission concurs with OP that 14-foot floor to finished ceiling heights are appropriate for all ground floor spaces in the PUD programmed for retail use in the CR zone. The Commission credits OP's testimony that retailers have consistently stated that the additional height is necessary for quality retail.

#### **Other Government Agency Reports**

58. By report dated July 14, 2003 and through testimony at the public hearings, DDOT stated its general support for the applications. DDOT concurred in the Applicants assessment of vehicle trips generated by the development and agreed that the area road network would operate at an acceptable level of service. DDOT expressed its preference that, to the extent possible, all current private streets in the project area be made public. DDOT

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further stated that any new streets must be built to District specifications and the Applicants agreed to comply with this requirement.

59. DDOT further recommended that, to the extent financially possible, that the Applicants should use high-quality streetscape materials for the sidewalk, curb, gutter, tree boxes, and other public realm elements. In particular, DDOT stated that the new 3<sup>rd</sup> Place – the PUD's "main street" – should use brick sidewalks, granite curb and alley aprons, brick gutters, bluestone pavers, and other attractive elements. DDOT also recommended that the Applicants treat the existing streets in accordance to their relative importance in the development. The retail areas along the Canal Blocks, for example, warrant brick sidewalks while, in other areas of the project, brick header rows may be a lower cost alternative. DDOT concluded that its recommended improvements over the Applicants' proposed landscape plan would serve to knit the new neighborhood aesthetically into Capitol Hill.
60. With respect to the operation of specific streets within the development, DDOT stated that it had no plans at present to reconstruct and reconnect I Street between 2<sup>nd</sup> Street and New Jersey Avenue, but that the connection was not necessary for traffic operations to continue at acceptable levels. DDOT expressed a preference that any private street be dedicated as a public street, including the easternmost 2<sup>nd</sup> Street (also known as Canal Street). The Applicants stated that the proposed new 6<sup>th</sup> Street at M Street would not align with the existing 6<sup>th</sup> Street to the south by approximately 85 feet due to underground utilities. Because DDOT requires that such offsets have a minimum distance of 100 feet, this street will be private. DDOT stated that a "pork chop" shaped median at M Street would help prevent cars from making unsafe and illegal movements from 6<sup>th</sup> Street, and the Applicants agreed to institute this traffic measure.
61. DDOT concluded, and the Commission finds, that the amount of street and private parking provided for the PUD is adequate.
62. DDOT recommended that the traffic study include additional analyses of measures needed to accommodate the increased pedestrian traffic generated by the PUD project. Through their post-hearing submission dated August 14, 2003, the Applicants' traffic consultant, O.R. George & Associates, provided the requested information. The traffic consultant concluded that the existing pedestrian sidewalk and crosswalk system can adequately accommodate the projected pedestrian volumes and flow patterns. Nevertheless, the Applicants will undertake certain improvements to protect pedestrian safety, including ensuring that the area's sidewalks are in good condition and provide clear widths in the range of six feet; provide clear curb environments at the internal intersections; provide eight-foot crosswalks at all intersections instead of the recommended six-foot width; and ensure that "all-way" stop control is provided at the internal intersections. The traffic consultant concluded, and the Commission finds, that

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these proposed improvements will ensure that the projected/future pedestrian volumes and flow patterns are accommodated with efficiency and safety. The improvements will also have a positive impact on the safety of other uses of the roadway and pedestrian facilities.

### Contested Issues

#### Acquisition of Private Properties

63. The Applicants testified that, as part of the overall development plan for the PUD, 20 privately owned properties in Squares 799 and 800 are to be acquired either through a negotiated purchase or through eminent domain. Of the 20 properties, which represent approximately two percent of the total project area, nine are owner-occupied and 11 are held by absentee owners.
64. The 20 properties that are to be acquired are necessary to achieve the redevelopment plan. Square 799 will be bisected by the new 3<sup>rd</sup> Place, with houses lining both sides of the street and turning the corners to also front on K and L Streets. The full and partial acquisitions are required to accommodate the number of units programmed for the eastern half of the square and to provide rear access to the garages in those units.
65. ANC 6B testified in opposition to the acquisition of the 20 properties for the HOPE VI project. The ANC stated that the acquisition plans set a bad precedent for the overall stability of neighborhood and would force homeowners out of their community and place a financial burden on them. ANC 6B noted that the housing prices for the new replacement units might be beyond the reach of the displaced homeowners that would like to return. The ANC further urged that a "right of first refusal" to return does not guarantee that the homes would be within the financial means of the property owners without some form of guarantee from DCHA.
66. The Commission also heard testimony in opposition to the acquisition of the designated properties from David Meadows and from the Capitol Hill Restoration Society. David Meadows, the owner and resident of a rowhouse at 305 K Street, S.E., one of the properties to be acquired, testified that his house, built in 1903, had historic merit and thus should not be demolished; that DCHA presented deliberately misleading and inaccurate statements regarding the number of properties to be acquired, placing owners at a disadvantage; and that DCHA failed to demonstrate a critical need for the properties and did not explore reasonable alternatives to acquisition. The Capitol Hill Restoration Society argued against the acquisition and demolition of properties that have historic merit, which it stated should be renovated instead.

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67. Paul Rowe of DCHA and Harry Sewell, on behalf of the Applicants, responded to these contentions. They stated that the project entailed considerable planning to ensure that the number of properties to be acquired was kept to the minimum necessary to proceed with the HOPE VI redevelopment plan. The Applicants stated that all affected property owners received a letter dated April 23, 2003, advising them that the subject property was to be acquired as part of the Arthur Capper HOPE VI project awarded to DCHA in October 2001, and that because federal financial assistance was involved in the project, acquisition would be governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA") of 1970, as amended. Consistent with URA requirements, the Applicants will use the results of an appraisal as the basis for determining "just compensation," defined as an amount not less than the appraised fair market value of the property. Families, individuals, businesses, or nonprofit organizations displaced as a result of the process may be entitled to relocation assistance if they are found eligible under Title II of URA.
68. The Applicants, in their Supplemental Post-Hearing Submission dated November 17, 2003, committed to explore whether more of the existing buildings can be retained in private ownership. The Commission urges the Applicants to continue to work on the design of Squares 799 and 800 with the goal of saving as much of the existing private housing as possible.
69. While recognizing the difficulties caused by the acquisition process on property owners, the Commission is required to evaluate the Applicants' proposal relative to the provisions of chapter 24 of the Zoning Regulations; its authority does not encompass the ability to limit or restrict the acquisition of properties by agencies such as DCHA. However, under the conditions of this Order, second-stage approval cannot be considered without the required signatures of all affected private property owners.

Ability of Displaced Residents to Return to the New Community and CSSP

70. Numerous residents testified in opposition to the proposed PUD based on the lack of assurances that displaced residents would be permitted to return to the new HOPE VI development. Debra Frazier, representative of the Friends and Residents of Arthur Capper/Carrollsborg, stated that the one-for-one replacement of public housing units involved income tiers that severely limited the ability of residents earning up to \$20,000 per year from returning to the new community. Based on information received at a meeting two years ago, Ms. Frazier stated that only 35 percent of units would be available for that income range. The remaining 65 percent of units would be available only to residents earning at least 90 percent of the Metropolitan Statistical Area median income, or approximately \$64,000. Because this far exceeds the income level of Capper/Carrollsborg residents, Ms. Frazier concluded that the vast majority of current

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tenants would not be able to return to the community. Agnes Taylor and Olena Oliphant supported Ms. Frazier's comments and likewise objected to the lack of guarantees to return for existing residents and to the types of assistance available for relocation. Brother Chris, a community activist, objected to the displacement of low-income families without guarantees that those earning between \$5,000 and \$20,000 annually would be allowed to return to the new community.

71. At the hearing and through evidence submitted to the record, the Applicants described the relocation process and the public resources available to residents to assist in their return. To be eligible to return to the HOPE VI site, an original resident must meet certain criteria under HUD's "Family Self-Sufficiency" requirements. The primary requirement is for residents to participate in the CSSP, which helps with employment training, finding work, building assets, and eventually relocating out of public housing. Other criteria established by DCHA require good standing as an existing public housing resident, including credit-worthiness or an agreement to pay any rent in arrears.
72. According to DCHA, residents have two primary resources to accomplish relocation: (i) housing choice vouchers ("HCV"), which require residents to contribute a certain percentage of their income toward rent, with the rest subsidized through the voucher; or (ii) other public housing units. Of the 171 households being relocated during Phase I of the PUD project, 116 have elected HCVs and 55 have elected to relocate to other public housing units. None of the displaced residents will experience a reduction in their rent subsidy. In order to return to the community, the resident must either be gainfully employed or in a training program, unless otherwise exempted by age or disability. Training programs are available through the CSSP, which has been approved by HUD. DCHA testified that the CSSP is currently in the case management stage for families to be relocated during Phase I. The case management stage includes an assessment of the needs of each individual, any obstacles that might prevent a person from returning to the community, and the best means to overcome the obstacles, by providing the training or programs to address issues.
73. Several witnesses expressed concern over the adequacy of the CSSP in providing job services and helping residents re-enter the HOPE VI community. ANC 6B testified that residents are being asked to sign an agreement to abide by the terms of the CSSP without those terms being fully developed. The ANC argued that the CSSP must be in place prior to the relocation of residents out of the community. The Committee of 100 urged the Commission to scrutinize the \$29 million in social service benefits in the CSSP on the belief that most of that money does not constitute new contributions but is money already paid for services to which the residents are currently entitled. As such, the Committee of 100 concluded, it should not count as a benefit of the PUD.

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74. The CDC expressed the desire to create a community covenant whereby the developers agree to commit to jobs for the current residents instead of just relying on the LSDBE and First Source Agreements. The CDC described the types and numbers of jobs to be created as a result of this development, stating that approximately 350 jobs are anticipated during the predevelopment and the first phase of construction with an additional 1,100 jobs for residents, primarily in the construction field, created in collaborations with other developers and employers in the area. The CDC further stated that it has already entered into an agreement with a case management firm to work with individuals and families during the relocation process to assess and identify any necessary job training or social support and link those residents with the service providers that have committed to be part of the HOPE VI process.
75. The Commission finds that the Capper/Carrollsbury HOPE VI project is unique in its scope because it calls for the one-for-one replacement of all existing public housing units. The Commission also notes that the CSSP will help maximize that opportunity by providing training and programs to overcome the obstacles that these residents and families may face. The Commission finds that the services and monies already allotted to the CSSP represent a significant project amenity and a benefit to the community as a whole, but that issues pertaining to the operational parameters of the HOPE VI program and its relocation policies are properly addressed to HUD and DCHA. The Commission finds that the CSSP is adequately funded and the service providers sufficiently identified to provide the type of support necessary to help residents attain gainful employment; to offer counseling, guidance, and other services to help sustain that employment; and to provide the necessary tools to help residents achieve self-sufficiency. In response to issues raised by ANC 6B, the Commission finds that the assessment phase is underway and that the CSSP is already functioning prior to the relocation of any residents.

#### Demolition of Recently Renovated Housing Units

76. Several witnesses in opposition to the proposed Capper/Carrollsbury HOPE VI project questioned the wisdom of demolishing public housing that was recently renovated. ANC 6B testified that less than two years ago, several buildings were renovated and rehabilitated pursuant to a court order, and the court certified that the work was completed and acceptable. David Meadows also questioned why functioning and inhabited units would be slated for demolition.
77. The Applicants responded by stating that the renovations were designed to keep the affordable units in service and habitable, but the work did not address long-term structural problems. In DCHA's judgment, ultimately concurred with by HUD through the award of the HOPE VI grant, demolition and replacement of functionally obsolete buildings was the most practical and economically feasible solution for the long term. The Carroll Senior Building, being the least distressed of the existing buildings, is being

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retained. DCHA submitted to the record excerpts from the HOPE VI grant, as well as engineer's certificates, documenting the dilapidated conditions of the buildings that qualified the property for demolition and redevelopment under the HOPE VI standards.

78. Based on this evidence of record, the Zoning Commission finds that the renovations of certain units were a temporary measure and that in order to achieve the long-term goals of affordable housing for the city, DCHA exercised its authority in determining that demolition of all but the Carroll Senior Building is necessary under the HOPE VI program.

#### Density and Lack of Open Space

79. ANC 6D, ANC 6B, and the Committee of 100 argued that the proposed project was too dense and did not provide enough open space. ANC 6D contended that there is already an overwhelming amount of commercial density proposed in near Southeast and Southwest. ANC 6D further noted that the number of residents would more than double, resulting in taller buildings and rowhouses without front or back yards. ANC 6D estimated that the development would result in lot coverage of essentially 100 percent with minimal parking. ANC 6D anticipated that the projected development would not be able to accommodate grocery and other retail services necessary to maintain the vitality of the neighborhood.
80. ANC 6B similarly objected to the lack of open space, noting that the Canal Park and Marine Barracks fields were at the edges of the development and would not compensate for the dearth of space at the heart of the residential community. ANC 6B suggested that all residential decks should be a minimum of six feet deep to help alleviate this problem. The Committee of 100 also objected to the lack of greenery, play spaces, and recreational places for family social life, and suggested a 10-percent reduction in the number of units. It further noted that the recreational opportunities at the Marine Barracks fields were not being realized, despite a Memorandum of Agreement, because events were being cancelled at the last minute.
81. In response to these assertions, the Applicants provided documentation evidencing that the proposed density of the PUD project is consistent with the density of surrounding neighborhoods. At 2.21 FAR, the overall residential density is less than 25 percent more than the density permitted in the existing R-5-B district, but still less than the 3.0 FAR allowed under the PUD guidelines. The requested density would accommodate an increase in the housing supply while replacing the same number of public housing units. Based on the Applicants' calculations, the 1,645 units over the net acreage of the site equates to approximately 75 units per net acre. This is consistent with the existing density of developments in the former Southwest Urban Renewal Area, which mixes townhouse and high-rise buildings together, including Tiber Island at 99 units per acre, Harbour Square at 71 units per acre, and Waterside Towers at 100 units per acre. The

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density of the consolidated PUD, at approximately 51 units per acre, is similar to developments on Capitol Hill located in both the R-4 and R-5-B districts. Examples include Potomac Gardens at 56 units per acre, and the Lincoln Park area, which averaged approximately 47 units per acre in the 26 squares studied.

82. The Commission is persuaded by the testimony of the Applicants and by the need for a sufficient level of density to support the one-for-one replacement of the existing public housing units that the overall density and the types of housing provided are appropriate. The Commission finds that the comparison of densities of surrounding areas demonstrates that the density proposed under the preliminary and consolidated PUD applications is reasonable and will provide enough open space to support recreational and other family social activities. The Commission finds no evidence of record to suggest that that the PUD cannot thrive at a density similar to that sustained in other stable neighborhoods in the Capitol Hill and Southwest Urban Renewal areas.

#### Height Along M Street at Eastern End of Project

83. ANC 6B and the Committee of 100 contested the proposed height of buildings along the eastern end of M Street as too tall. They contended that, at a proposed height of 110 feet, the office buildings in the 600 block of M Street would loom over the neighboring Van Ness School to the west and overshadow the proposed new rowhouses to the north. ANC 6B stated the height would be inconsistent with the 8<sup>th</sup> Street Overlay, which limits height to 45 feet along 8<sup>th</sup> Street. The ANC suggested that such buildings would be more appropriately located within the boundaries of the PUD along New Jersey Avenue, which permits a height 130 feet.
84. The Commission is concerned about the height of 110 feet proposed by the Applicants for the 600 M Street office buildings in Square 882. These buildings would be located immediately adjacent, with little setback, to low-rise townhouse dwellings to the north and at the eastern limit of the project along M Street, offering no opportunity to transition to lower heights to the east. The Commission is not persuaded by the testimony of OP or the Applicants, and instead finds that a maximum height of 90 feet is appropriate in Square 882 at this location. The designs of the office buildings proposed for Square 882 will be subject to further review in a second-stage PUD application.

#### 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

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that it protects and advances the public health, safety, welfare, and convenience.” 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated or a first-stage PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, and loading, and for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. The development of this PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that 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.
5. The PUD is within the applicable height, bulk, and density standards of the Zoning Regulations, and the height and density will not cause a significant adverse effect on any nearby properties. Residential use is appropriate for the site, which is located within a Housing Opportunity Area. The commercial office and retail uses are also appropriate at the perimeter of the site, in close proximity to mass transit. The site of the community center is likewise appropriate, designated in the parks, recreation and open space category on the Generalized Land Use Map. The impact of the project on the surrounding area is not unacceptable. The proposed development has been appropriately designed to complement and respect existing adjacent buildings with respect to height and mass.
6. The Commission may process the preliminary PUD application involving privately owned property whose owners have not signed the application, because a government agency intends to acquire that property by eminent domain or negotiated sale, and because an owner's rights will not be affected by preliminary approval. The second-stage PUD may not be processed without the required signatures of all affected private property owners.
7. The PUD applications meet the contiguity requirements of § 2401.3.
8. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

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9. The project benefits and amenities, particularly the provision of housing, affordable housing, and neighborhood-serving retail, are reasonable for the development proposed on the site. The PUD responds to the surrounding residential and commercial developments.
10. The Applications seek an increase in height and the aggregation of density and lot occupancy, as permitted by 11 DCMR §§ 2405.2, 2405.3, and 2405.4. The project benefits and amenities, particularly the provision of housing in a Housing Opportunity Area, the creation of a new urban, mixed-use mixed-income community, the one-for-one replacement of public housing units, the recreation and open space including the Canal Blocks, the employment training, and social services counseling, are all reasonable trade-offs for the requested development flexibility.
11. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.
12. Approval of the PUD and related change in zoning is not inconsistent with the Comprehensive Plan.
13. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give "great weight" to the issues and concerns of the affected ANCs. As is reflected in the Findings of Fact, the Commission has carefully considered the testimony and evidence submitted by ANC 6D and ANC 6B.
14. The applications for a PUD and related map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
15. The applications for a PUD and related map amendment are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL**, consistent with this Order, of the Applications for (1) preliminary review of a Planned Unit Development; (2) consolidated review of a Planned Unit Development; and (3) a Zoning Map amendment from R-5-B to CR for certain designated portions of the Arthur Capper/Carrollsborg HOPE VI redevelopment site. The Commission waives a portion of the hearing fees for these applications, so that the Applicants are required to pay a fee of \$77,100. This approval is subject to the following guidelines, conditions, and standards:

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1. The preliminary approval of the PUD shall apply to the following properties: Square 737, those portions of Lot 814 and Reservation 17A that lie south of the southern right-of-way line of I Street extended; Square 799, Lots 20, 27, 28, 29, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 803, 805, 807, 808, 809, 816, 818, 819, 825, 826, and 827; Square 800, Lots 25, 26, 27, and 28; Square 824, Lots 37, 38, and 39; Square N853, Lot 809; Square 880, Lot 24; Square W881, that part of Lot 800 within 132 feet of 5<sup>th</sup> Street; Square 882, Lot 76; and all of Squares 739, 767, 768, 769, 797, 798, 825, and S825.
2. The consolidated approval of the PUD shall apply to the following properties: Square 824, Lots 37, 38, and 39; Square S825, Lots 30, 31, 32, and 33; Square 880, Lot 24; and all of Squares 797, 798 and 825.
3. A PUD-related map amendment shall rezone the following properties from R-5-B to CR upon completion of the second-stage approval of the PUD: Square 769, that portion lying more than 145 feet from the northern right-of-way line of M Street (including a portion of Reservation 17D); Square 882, that portion lying south of the midpoint of the Square; and all of Squares 767 and 768 (including Reservations 17B and C).
4. The second-stage applications for approval of the PUD shall be based on the plans prepared by Torti Gallas and Partners, dated May 27, 2003, marked as Exhibit No. 19 in the record of Case No. 03-12, including the revisions from the Supplemental Post-Hearing Submission dated November 12, 2003 to include the property of the Van Ness Elementary School (the "Preliminary Plans"), as modified by the guidelines, conditions and standards herein.
5. The project in its entirety shall include a maximum of 1,645 residential units, a maximum of 702,000 square feet of gross floor area of office space, a maximum of 51,000 square feet of gross floor area of retail space, and a community center including approximately 18,000 square feet of gross floor area. The distribution of uses and densities shall be as shown on the Site Plan Development Data, Sheet S-3.1 of the Preliminary Plans.
6. A minimum of 695 of the residential units shall be devoted to public housing, including 300 units in the two senior buildings. A minimum of 50 units shall be home-ownership Section 8 units under the HUD program.
7. The overall maximum permitted residential density shall be 2.21 FAR across the project as a whole, for a maximum permitted gross floor area of 2,092,081 square feet, including the community center. The overall maximum permitted office and retail density shall be 0.80 FAR across the project as a whole (1.87 FAR based on the land area to be zoned C-3-C and CR), for a maximum permitted commercial gross floor area of 753,000 square

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feet. The project shall also include the density currently contained on the Van Ness Elementary School site in Square 853N.

8. Except for roof structures, the maximum permitted heights shall be as follows:
  - a. For the office buildings in Square 769: 110 feet;
  - b. For the office buildings in Square 882: 90 feet;
  - c. For the apartment buildings in Squares 768 and 769: 110 feet;
  - d. For the apartment building in Square 739: 130 feet;
  - e. For the apartment building in Square 767 and the existing senior apartment building in Square 825: 65 feet;
  - f. For the senior apartment building in Square 880: 50 feet;
  - g. For the remaining residential buildings: 45 feet;
  - h. For the community center building: 25 feet; provided that:
  - i. Roof structures may exceed the maximum permitted building height up to a maximum of 18 feet, 6 inches above the roof on which they are located, in accordance with the provisions of the Zoning Regulations.
9. The overall lot occupancy for the residential buildings in the project shall not exceed 54 percent.
10. The design of buildings in the project shall comply with the Urban Design Guidelines set forth in the Preliminary Plans.
11. The project shall include a minimum of 1,980 off-street parking spaces. The distribution of the spaces shall be as shown on the Parking Plan, Sheet T-3.0 of the Preliminary Plans.
12. Landscaping treatment shall be as shown on Sheet L-1.0 of the Preliminary Plans.
13. Outdoor decks having a minimum width of 6 feet shall be provided for all public housing units in Squares 797, 798, 799, 800, 824, 825, 825S, and 882 that have decks, as shown on Exhibit 9 of the Applicants' Post-Hearing Submission, marked as Exhibit 61 of the Record in Case No. 03-12 (the "Post-Hearing Submission").

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14. At least 20 percent of the market rate townhomes shall be provided with low wrought iron fences in public space to define a front yard for children or personal recreation space.
15. The Applicants shall provide a minimum floor height of 14 feet in those areas designated for first-floor retail use.
16. The Applicants shall use their best efforts to reach agreement with the U.S. Marine Corps on the operational details for community use of the playing fields on Reservation 19. The Applicants shall submit a copy of the agreement with the filing of the first second-stage application.
17. Prior to the issuance of the building permit for the office building at 250 M Street, S.E. (in Square 769), Square 769, LLC shall contribute \$46,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.
18. Prior to the issuance of the building permit for the 600 M Street, S.E. office buildings, the Capper/Carrollsborg Venture, LLC shall contribute \$137,000 to the Canal Park Development Association for use in making improvements to the Canal Blocks Park.
19. Prior to the issuance of the first certificate of occupancy for any of the residential buildings facing the Canal Blocks Park, the Applicants shall clear the portions of Squares 767, 768, and 769 (Reservations 17B, C, and D) to be used for the Canal Blocks Park of all other uses, shall bring the site to rough level finished grade, and shall plant the site with grass.
20. The Applicants shall file an application for a building permit for the community center building in Square W881 (also known as Reservation 19) by July 1, 2005, subject to review by the National Park Service of the proposed uses. Plans shall be submitted to the Zoning Commission as part of a second-stage application with sufficient lead time to allow this deadline to be met. Construction shall start on the community center no later than 180 days after the issuance of the building permit.
21. The Applicants shall carry out the Community and Supportive Services Program, a summary of which is included as Exhibit 5 in the Applicants' Post-Hearing Submission.
22. The Applicants shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses 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. The Applicants shall provide information regarding available jobs created by the project to the Capper/Carrollsborg on the Hill Community

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Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.

23. The Applicants shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing District of Columbia residents for at least percent fifty-one (51%) of the jobs created by the PUD project. The Applicants will give special consideration for hiring of residents from the Near Southeast community. The Applicants shall provide information regarding available jobs created by the project to the Capper/Carrollsborg on the Hill Community Development Corporation and to ANCs 6B and 6D for dissemination to the surrounding communities.
24. The properties in the consolidated PUD shall be subject to the following additional guidelines, conditions, and standards:
  - a. The consolidated PUD shall be developed in accordance with the plans prepared by Torti Gallas and Partners and the Lessard Architectural Group, dated May 27, 2003, marked as Exhibit No. 17 in the record of Case No. 03-12 (the "Consolidated Plans"), as modified by the guidelines, conditions, and standards herein.
  - b. Landscaping, streetscape, and exterior lighting shall be as shown on the Consolidated Plans. Landscaping, streetscape, and lighting improvements to public space shall be in accordance with the Consolidated Plans and as approved by the Public Space Division of DDOT. The Applicants, their successors, or a community association shall maintain all landscaping, streetscape, and lighting improvements in good condition.
  - c. The Applicants shall have flexibility with the design of the consolidated PUD in the following areas:
    - (i) To increase or decrease the overall number of units by no more than five percent (5%);
    - (ii) To rearrange the unit types and mix within each square and to reallocate unit types from one square to another, provided that the design for each square and the overall consolidated PUD is consistent with the Urban Design Guidelines in the Preliminary Plans;
    - (iii) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways,

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- mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the buildings;
- (iv) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
  - (v) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the building code or that are otherwise necessary to obtain a final building permit.
- d. No building permit shall be issued for the consolidated PUD until the Applicants have individually recorded covenants in the land records of the District of Columbia, between the owners and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenants shall bind the Applicants and all successors in title to construct on and use the property in accordance with this order or amendment thereof by the Zoning Commission.
  - e. Notwithstanding Condition 24d, above, Senior Building No. 1 (in Square 880) may proceed as a matter of right if it meets all the requirements of the R-5-B district applicable to the lot existing at the time the building permit is issued. Upon recordation of the covenant required by Condition 24d, above, for Square 880, the lot may be subdivided as set forth in the Consolidated Plans.
  - f. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicants have filed copies of the covenants with the records of the Zoning Commission.
  - g. The consolidated 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, the first application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction on the first building shall begin within three years of the effective date of this Order.
- 25. An individual Applicant shall be responsible for carrying out those conditions of this Order that are applicable to each specific property and shall not be responsible for the obligations or requirements of the other Applicants.
  - 26. Any application for second-stage approval of the PUD shall include the signature of all owners of the property involved.

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27. The second-stage approval may be requested in one or more applications. If there is to be only one second-stage application, that application shall be filed within 18 months of the effective date of this Order. If there is to be more than one second stage application, the first second-stage application shall be filed within 18 months of the effective date of this order and that application shall include a phasing plan for the remaining applications. Approval of the first-stage application shall be for a period of four years from the effective date of this Order.
28. No application for second-stage approval shall be filed until the Applicants have recorded the covenants required by the Regulations and Condition 24d of this Order for the consolidated PUD.
29. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. 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.

Vote of the Commission taken at its public meeting held on January 12, 2004, to approve, subject to conditions, the application for consolidated PUD approval in Case No. 03-12 by a vote of 4-0-1 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

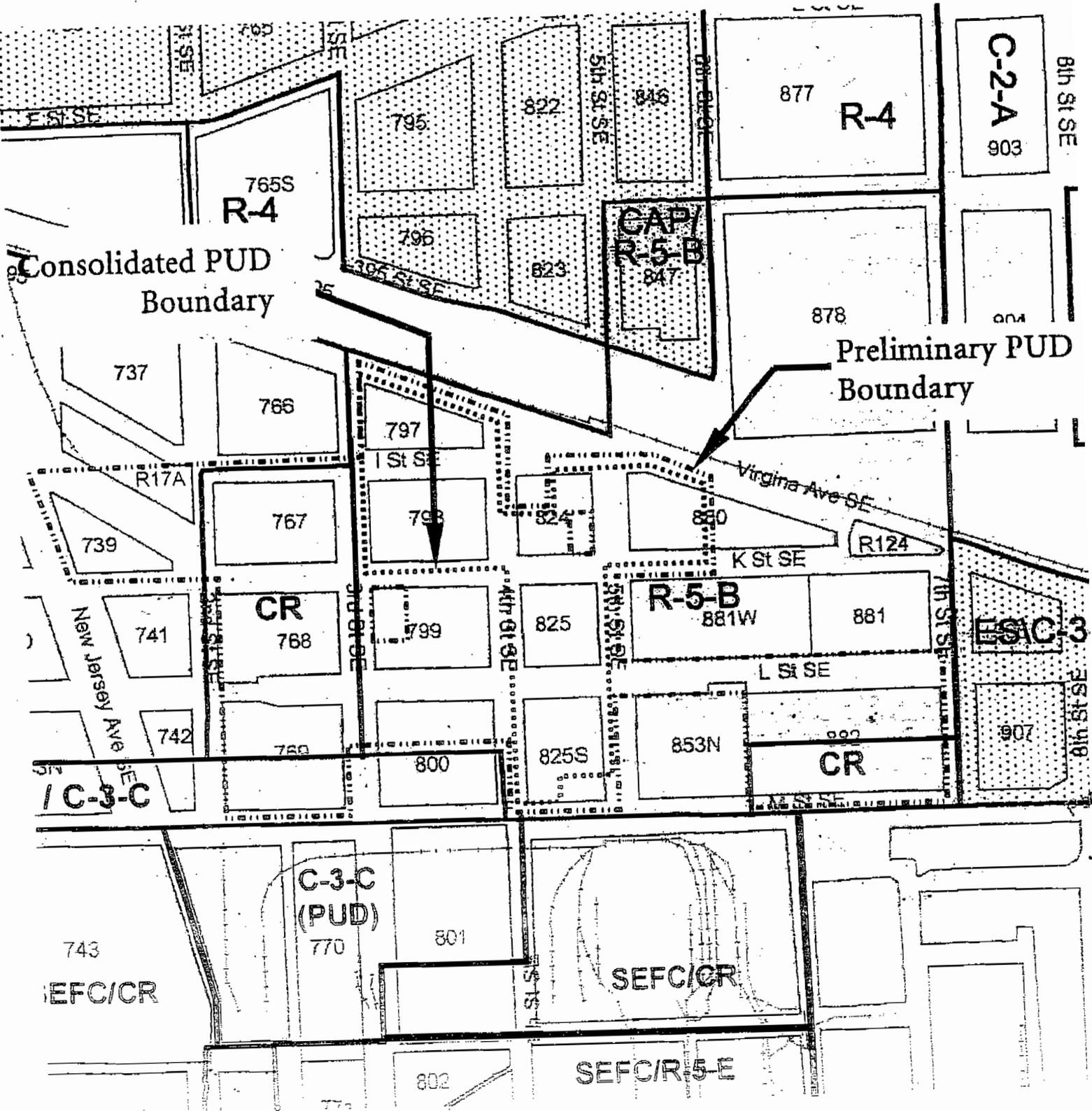
Vote of the Commission taken at its public meeting held on February 6, 2004, to approve, subject to conditions, the application for preliminary PUD approval in Case No. 03-13 by a vote of 4-0-1 Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

This Order was originally adopted by the Zoning Commission at its public meeting on February 6, 2004, by a vote of 4-0-1 Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Peter G. May in favor; James H. Hannaham not present, not voting).

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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 \_\_\_\_\_:

DISTRICT OF COLUMBIA REGISTER



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING**

**and**

**Z.C. ORDER NO. 04-29**

**Z.C. Case No. 04-29**

**(Text Amendment – 11 DCMR)**

**(Fire and Emergency Medical Services Facilities)**

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

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