Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 700
Case No. 90-20F/87-4P
(PUD & Map @ Capitol Point)
February 10, 1992

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on January 28 and May 20, 1991. At those hearing sessions, the Zoning Commission considered the application of Riverside Associates Limited Partnership. The application requested second-stage (final) approval of a Planned Unit Development (PUD) and related amendment to the Zoning Municipal Regulations of the District of Columbia, pursuant to the provisions of Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations, Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on August 10, 1990, requested final approval of a PUD and related change of zoning from W-1 and W-3 to CR for lot 801 in Square 602 located adjacent to the east boundary of Fort McNair at 2nd and R Streets, S.W.

2. By Z.C. Orders No. 623 and 623-A, dated July 6, 1989, the Zoning Commission granted first-stage (preliminary) approval of a PUD and related change of zoning from unzoned property to W-1 and W-3 for the PUD site.

3. The instant application is to construct a high-rise mixed-use residential/commercial development including office and retail uses.

4. The PUD site is vacant unimproved land that measures 8.51 acres in land area (including a portion of R Street proposed to be closed), and is situated in the Southwest quadrant of the District of Columbia on the Buzzard Point peninsula.

5. The Buzzard Point area is approximately seventy (70) acres in land area, and is generally bounded by the Washington Channel on the west, the Anacostia River on the south and east, and P Street on the north.

6. The Buzzard Point area is zoned C-M-2 and M, and is characterized by industrial uses such as warehouses, PEPCO power plant and equipment storage, and Steuart Petroleum. Two office buildings, the Transpoint Building and Buzzard's Point Building, have been recently constructed in the area. For the most part, the area is underdeveloped or vacant, and represents a valuable land resource for future development in the city.

7. The W-1 District permits matter-of-right low density residential, commercial, and certain light industrial development in waterfront areas to a maximum height of forty feet, a maximum floor area ratio (FAR) of 2.5 for residential and 1.0 for other permitted uses, and a maximum lot occupancy of eighty percent for residential uses.

8. The W-3 District permits high density residential, commercial, and certain light industrial development in waterfront areas to a maximum height of ninety feet, a maximum FAR of 6.0 for residential and 5.0 for other permitted uses, and a maximum lot occupancy of seventy-five percent for residential uses.

9. The CR District permits matter-of-right residential, commercial, and certain light industrial development to a maximum height of ninety-feet, a maximum FAR of 6.0 for residential and 3.0 for all other permitted uses, and a maximum lot occupancy of seventy-five percent for residential uses.

10. The District of Columbia Generalized Land Use Element of the Comprehensive Plan for the National Capital, as amended, includes the PUD site in the medium residential/medium commercial/production and technical employment mixed use categories.

11. The application, as amended, by the prehearing submission, proposed to construct a 12-story mixed-use development, including residential, office, and retail uses. The proposal will have a maximum height of 110 feet, a maximum FAR of 5.5, a lot occupancy of seventy-five (75) percent, and below grade parking to accommodate 1990 cars. The gross floor area is approximately 1,985,432 square feet (708,650 square feet devoted to residential use and 1,276,782 square feet devoted to commercial use).

12. The commercial portion of the building fronts on Second Street, S.W., and has a maximum building height of 110 feet. The residential portion of the building is located on the western half of the site, adjacent to Ft. McNair. It ranges in height from 40 feet at a point 50 feet removed from the Fort's east property line to 110 feet back toward 2nd Street. No portion of the residential development exceeds 90 feet within 224 feet of the Fort's east property line.

13. The residential portion of the project consists of a minimum of 500 market rate condominium and rental units. Unit prices will be determined by the market at the time of completion and will reflect the employment character of the area. Units will vary in size from efficiencies and one-bedroom units to one bedroom plus den and two bedroom units.

14. Both passive and active recreational facilities are provided on the site for the benefit of residential occupants. Active recreation facilities include a pool located on the southwest portion of the Site. Passive recreational facilities include a landscaped pedestrian walk along the Site's western frontage.

15. The project includes a three level underground parking garage with 2,150 parking spaces. One level of the planned three story garage may be eliminated so long as adequate parking spaces consistent with the Anacostia Waterfront Master Plan recommendations can be accommodated on two levels including the use of vault and compact car spaces.

16. Twelve loading berths are provided at four locations. These locations include two loading areas accessible from Second Street and two loading areas accessible from the northern and southern ends of the service drive running around the perimeter of the site. Each loading area contains three loading berths, one 55 feet deep and two 30 feet deep. This allocation as well as the total number of berths exceeds the requirements of the Zoning Regulations.

17. The PUD design addresses the need to create a suitable environment for housing at the edge of a deteriorated industrial area, the site's relationship to the historic campus of Ft. McNair, and the need to integrate housing and commercial components into an harmonious assembly of

physical forms and urban spaces. The placement of the housing component adjacent to the Fort provides visual relief by setting the mass of the building back in several tiers. The juxtaposition of the commercial element along 2nd Street and the location of the apartments adjacent to Ft. McNair shields the residential units from the current deteriorated conditions in the surrounding area and allows residents to enjoy the views and open space of the Fort and the waterfront. The placement of the commercial space along the eastern portion of the site is consistent with anticipated neighboring land uses and provides convenient access to the existing and proposed road network. The mass of the commercial portion of the building is relieved by vertical breaks along the Second Street facade.

18. The building's exterior will be of masonry construction. A combination of brick, cast stone and pre-cast concrete building materials complement the historic architectural style of Ft. McNair. The use of punched window openings, sills expressed in cast stone, parapet caps of cast stone, base courses of cast stone and walls of brick are compatible with the Fort.

19. The applicant proposes extensive landscaping for the site. Highlights of the landscape plan include a landscaped interior space between the commercial and residential portions of the building consisting of special paving, raised planters featuring a variety of trees, shrubs, and flowering plants, and garden courts offering seating and fountains for visual interest. The landscape plan also calls for a pedestrian boulevard lined with shade trees in the setback area between the building and the Fort and a passive recreation area designed as an urban park in the southwestern portion of the site. The landscape plan includes streetscape improvements along 2nd Street consistent with the recommendations of the Anacostia Waterfront Master Plan.

20. Both the residential and commercial portions of the project will be constructed in up to four phases. The precise order of development will depend on market conditions.

21. Since the issuance of the first stage order, the Council of the District of Columbia enacted the District of Columbia Comprehensive Plan Amendments Act of 1989. The Act changed the land use designation of the PUD site from federal land to "mixed use, medium density residential/

medium density commercial/production and technical employment." The National Capital Planning Commission (NCPC) likewise amended its federal element maps to indicate a mixed use designation rather than the previous designation as Federal property.

22. The applicant indicated that its proposal to develop a mixed-use residential/commercial development with an overall 5.5 FAR is consistent with both the Federal and District Comprehensive Plan land-use designations for the PUD site. More specifically, the proposed commercial density of 3.5 FAR for the PUD site comports with the 2.1 - 4.0 FAR medium density commercial range established by the Council and set forth in the Committee of the Whole Report dated October 3, 1989. The proposed residential component of a minimum of 500 units (or about 59 units per acre) fits within the Council's designation for medium density residential development -- 49 to 90 dwelling units per acre.

23. The applicant also indicated that its proposal complies with the Ward 2 Plan adopted as part of the Act. The application's mixed-use project contributes to the revitalization of the Buzzard Point peninsula, serves as a catalyst for development of the area, and provides substantial housing opportunities for District residents. Further, the applicant's commitment to contribute to infrastructure improvements ensures enhanced transportation efficiency within the peninsula and the landscape and streetscape proposals improve the pedestrian environment.

24. The applicant further indicated that its second-stage application meets all of the standards set forth in the Commission's first-stage order; that is, Z.C. Order No. 623.

25. The applicant's proposal is consistent with the recommendations of the Anacostia Waterfront Master Plan. The Plan calls for building heights ranging from 130 feet fronting on Potomac Avenue to 55 feet along the Waterfront; an overall FAR through the entire peninsula residential 5.5 with 25 to 30 percent of that FAR devoted to residential use; a maximum lot occupancy for individual buildings of 75 percent; and placement of the residential units adjacent to the Fort, the applicant's proposal responds affirmatively to the Plan's requirements.

26. The mixed use, CR zone District is the most appropriate zoning designation for the PUD site. The CR Zone permits a matter-of-right building height of 90 feet and a matter-of-right FAR of 6.0, not more than 3.0 FAR of which may be used for non-residential purposes. A maximum lot occupancy of 75 percent is allowed. The PUD guidelines for development in the CR zone allow a building height of 110 feet and a density of 8.0 FAR, including up to 4.0 FAR for commercial uses.

27. The applicant proffered the following amenities and benefits to the District of Columbia:

a. The provision of up to 2.0 FAR of new residential development (a minimum of 500 units) in the District of Columbia;

b. A contribution of $250,000 to the Wylie Branton Community Development Corporation (CDC) to be used for economic development projects, social service programs, housing and community education;

c. The creation of over 150 construction and related industry jobs throughout the seven to ten year development period;

d. The creation of approximately 1,200 office, retail and service industry jobs by the 5th year of development, growing to over 2,000 new jobs by the 10th year of operation;

e. The sustained generation of annual property, sales and personal income tax revenues of approximately $3.2 million annually by the 5th year of operation, growing to approximately $7.6 million annually by the 10th year of operation;

f. The construction of a high quality project which will serve as a catalyst for redevelopment of the Anacostia Waterfront;

g. The applicant's financial participation in major infrastructure improvements in the Anacostia Waterfront Area;

h. The provision of shuttle bus service or other form of public transportation service in conjunction

with other landowners in the Buzzard Point peninsula between the Site and the completed Navy Yard and Waterside Mall Metrorail stations;

i. The construction of streetscape improvements along 2nd Street to create a portion of a pedestrian connection to the waterfront;

j. The execution of an Affirmative Action Plan;

k. The execution of a Community Participation Agreement with ANC 2D;

l. The provision of parking spaces in the commercial portion of the parking garage for use by the community subject to conditions mutually agreed upon by the applicant and ANC 2D;

m. The execution of a D.C. Department of Employment Services (DOES) First Source Agreement; and

n. The execution of a D.C. Minority Business Opportunity Commission (MBOC) Memorandum of Understanding.

28. The applicant requested certain flexibility in the following development features:

a. Vary the number of residential units to allow for larger or smaller units, in response to market conditions so long as there are no less than 500 residential units at the Site. An increase or reduction in the number of residential units would not result in the reduction of gross square footage devoted to residential use;

b. Increase the amount of FAR devoted to residential use so long as the maximum building envelope does not exceed 5.5 FAR;

c. Change the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, so long as the variations do not change the exterior envelope of the building including the penthouse;

d. Make minor adjustments in the facade window detailing, including the flexibility to shift the

location of the doors to any retail uses on the ground floor to accommodate the retail uses; and modify the parking and loading plans depending on the project phasing.

29. The District of Columbia Office of Planning (OP), by memorandum dated January 23, 1991 and by testimony presented at the public hearing, recommended that the application including rezoning from W-1 and W-3 to CR, be conditionally approved, OP identified the following conditions of approval:

a. The applicant must demonstrate that it has made a bona-fide best effort to address and resolve the security concerns raised by the Army and the National Capitol Planning Commission (NCPC);

b. The applicant satisfy the concerns raised by the Department of Public Works and other recommendation of the transportation study for the area; and

c. The applicant reduce the scale and apparent length of the 2nd Street facade in a meaningful manner;

30. The District of Columbia Department of Public Works (DPW) by memorandum dated January 22, 1991 and by testimony presented at the public hearing expressed no objections to the proposal and indicated the following:

a. That the level of parking supply is adequate;

b. That the applicant should submit a loading plan to scale which details actual berth dimensions and truck maneuverability for the loading area; and

c. That the applicant had yet to submit for DPW review the infrastructure improvements plans.

31. The District of Columbia Department of Recreation and Parks (DRP) by memorandum dated January 10, 1991, expressed no objections to the PUD. DRP suggested that, for the lack of an approved master plan for Buzzard Point, it and OP should establish an interim park and open space standard for the area. DRP further suggested that the footprint of the PUD project be reconfigured and shifted eastward in order to increase the usefulness of the proposed park area.

32. The District of Columbia Fire Department (DCFD), by memorandum dated January 11, 1991, had no objections to the proposal, provided that the proposal does not adversely affect the operations of the DCFD.

33. The District of Columbia Metropolitan Police Department (MPD), by letter dated January 9, 1991, expressed no opposition to the proposal.

34. The District of Columbia Department of Finance and Revenue (DFR), by memorandum dated January 16, 1991, had no objection to the proposal. DFR indicated that the PUD will be an asset to the waterfront area from both an aesthetic and developmental standpoint.

35. Advisory Neighborhood Commission (ANC) 2D, by letter dated January 25, 1991 and by testimony presented at the public hearing, supported the PUD proposal subject to the terms of a development and impact agreement between Riverside Associates and ANC-2D.

36. The Buzzard Point Planning Association (BPPA) appeared as a party in support of the application. While BPPA supported the proposed use, bulk and design of the project, BPPA recommended breaking the building into three smaller elements to respond to a proposed extension of Potomac Avenue. BPPA advocated extension of Potomac Avenue through the PUD site to the Ft. McNair property line in deference to the street grid and open space system proposed by the L'Enfant Plan.

37. A representative of the National Capitol Planning Commission (NCPC) by letter dated January 10, 1991, indicated that it had been advised by the Department of the Army that the security concerns of the Army would be met if the applicant agrees to the following:

    a. Access to the construction site during actual construction to verify McNair site security profile and the siting of required USSS obscuration material pilings;

    b. Access to roofs and alcoves in building profile to sweep with Metropolitan Police and USSS prior to scheduled POTUS visits;

    c. An access control security system for the new complex when completed which would have a verification-upon-entry procedure; and

d. Liaison meetings with security officials during startup and continuity of complex for the exchange of information and pertinent data.

38. NCPC indicated that although the Commission believes that the design and placement of buildings in the current application respond directly to concerns expressed at the Stage I hearings, the issue of height impact on the historic quality of Fort McNair remains.

39. There were no persons or parties that testified in opposition to the proposal.

40. On March 11, 1991, at its regular monthly meeting, the Zoning Commission considered the application for proposed action. However, in lieu thereof, the Commission reopened the record and authorized a limited further hearing. The applicant and parties were requested to comment on some concerns of the Commission about bulk, massing and the design of the Second Street facade, including the treatment of the Potomac Avenue terminus.

41. By letter dated April 8, 1991, the applicant revised the design of the project as follows:

a. The 2nd Street facade of the Capitol Point development has been visually broken into two major elements connected by a glazed winter garden that spans the entry portal at R Street. This element will be essentially transparent to a viewer approaching the building along R Street, S.W., and will be set back approximately 15 feet from the Second Street building line;

b. The principal facades of each of the two major elements are further subdivided into a series of pavilions. The pavilions consist of projecting columns/pilasters and major glazed plans alternating with recessed panels of brick masonry. The brick portions of the projecting pavilions will be darker than the brick portions of the recessed plane of the building. Both brick tones are keyed into the color palette that is representative of the Fort McNair campus. Cast stone trim will complement the masonry and further tie the design into Fort McNair;

c. To further diminish the apparent bulk of the development, the building will have a varied

cornice treatment, consisting of stepped pediments and gabled elements projecting above the parapet. The parapet is a glazed filigreed screen that softens the impact of the building against the sky; and

d. Recognizing the Commission's concern about the terminus of Potomac Avenue at the site, the portico framing this vista is given a special identity. This element is framed by large scale columns and includes a clear glass atrium that extends to the full height of the building. During the day, the atrium will be bathed in natural light. At night, it will be illuminated to form a goal point for the visual extension of the avenue. The loading dock formerly at this location has been moved to the north and is no longer included in this special design element. The northern half of the Second Street facade between Q and R Streets, S.W. will have a similar, but less prominent feature.

42. At the further hearing on May 20, 1991, the applicant testified about the above-mentioned design modifications, and further indicated that it reduced the apparent bulk of the building by reducing the commercial floor area from 5.5 FAR to 5.3 FAR (a loss of approximately 65,700 square feet).

43. The OP, by supplemental memorandum dated May 10, 1991 and by testimony presented at the further hearing, indicated that the design changes have considerably advanced the design of the project.

44. ANC-2D, by supplemental letter dated April 22, 1991 and by testimony presented at the further hearing, supported the revisions to the application and found the changes to be an improvement to the project.

45. The BPPA, by supplemental letter dated May 20, 1991 and by testimony presented at the further hearing, offered the following comments:

a. That Potomac Avenue should still be extended to Ft. McNair in order to preserve the historical relationship between Ft. McNair and the Buzzard Point area; and

b. That the Buzzard Point area is a potential area for the relocation of a number of Federal agencies and encourages the need to provide large floor plates in a single building. The relocation of a major Federal agency to Buzzard Point will be a critical catalyst in the development of the area.

46. In a post-hearing submission requested by the Commission and dated May 28, 1991, the applicant documented the federal government's need for approximately 17,650,000 square feet of floor space by 1995; the policy of the General Services Administration to favor consolidation of federal government agencies in large, contiguous space whenever feasible and economically prudent to do so; and the space needs of eight government agencies requiring between 600,000 and 4.6 million gross square feet of floor space. The applicant also demonstrated that the project, with a revised overall FAR of 5.3, is consistent with the recommendations of the Anacostia Waterfront Master Plan. The Plan recommends an overall 5.5 FAR for the peninsula.

47. The Commission concurs with the applicant and finds that the proposal, as revised, is appropriate, and is consistent with the intent and purpose of the Comprehensive Plan and the Anacostia Waterfront Master Plan.

48. The Commission further concurs with the position and recommendations of OP, ANC-2D, DCFD, MPD, DFR, and others, and believes that, in its decision, it has addressed the concerns of DPW and DRP.

49. As to the concerns about security, the Commission finds that the applicant has agreed to abide by the four conditions of the Army, and has modified the second-stage PUD design to include building and height setbacks.

50. As to the concerns of DPW about infrastructure improvements, the Commission believes that the applicant's rate in the on-going infrastructure improvement study coupled with a condition obligating the applicant to pay its pro rata share of improvements highlighted by the study ensures that this applicant peninsula's infrastructure by subsequent development.

51. As to the concerns of DRP about recreation space, the Commission finds that the proposed location and area of the recreation space is suitably located and adequate to

the tenants of the project. The Commission notes that the recreation area will also receive maximum sunlight from mid-morning until sundown.

52. As to the concerns of BPPA about alternative massing and the Potomac Avenue Terminus, while the Commission appreciates the historical planning framework underlying BPPA's recommendation, the Commission finds that the reduced FAR associated with BPPA's alternative design jeopardizes the significant residential FAR incorporated in the applicant's proposal. Moreover, the BPPA proposal ignores the security concerns of the Army by pushing the building bulk back toward the Fort property line and by extending Potomac Avenue to the edge of a sensitive area of the Fort.

53. As to the concern of NCPC about height, the Commission finds that the proposed project appropriately scales back the building from the Fort, and that a 110 foot building height fronting on 2nd Street, S.W., is an appropriate level of development to stimulate revitalization of the peninsula. The Commission acknowledges the historic quality of the Fort and finds that the PUD proposal respects its landmark status from an urban design and historic preservation perspective.

54. The Zoning Commission concurs with OP that the scale and apparent length of the 2nd Street facade is enhanced by the revised design. The proposed building relates contextually to other anticipated development within the Buzzard Point area. The Commission finds the applicant's revised plans for the 2nd Street facade respond affirmatively to the design concerns raised and relieve the mass while retaining large floor plates responsive to federal agency needs. The Commission is cognizant of and sensitive to the need to retain government agencies within the District and finds the Buzzard Point Peninsula and the PUD site a suitable location for federal agency relocation and consolidation.

55. The Applicant's proposal meets the intent of the CR Zone District because it provides for a mix of compatible residential and commercial uses and creates a quality of urban life conducive to living and working in a development opportunity area of the District. The proposed overall density of the project is within the matter-of-right density limits for the CR Zone District and the PUD guidelines for height and commercial bulk.

56. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by letter dated July 25, 1991, indicated that the proposed action of the Zoning Commission to approve the PUD with conditions would not adversely affect the Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital, provided that further height reduction be incorporated into the guidelines, conditions and standards, which would mitigate the difference in the relative scale and character of the proposed PUD buildings and the small historic buildings of Ft. McNair.

57. On September 10, 1991, at its regular monthly meeting, the Zoning Commission considered the case for final action. The Commission deferred final action and requested staff to develop conditions of approval that focused on the phasing of development and the assurance of the delivery of the residential units.

58. On November 18, 1991, at its regular monthly meeting, the Commission considered a memorandum dated October 9, 1991 from the Secretary to the Commission. The memorandum outlined proposed conditions of approval for the phasing of development and the assurance of the delivery of residential units, as discussed by the Commission on September 10, 1991. The Commission deferred final action, and reopened the record for parties, the Office of Planning (OP), and the Office of Zoning (OZ) to refine the aforementioned conditions of approval.

59. On December 9, 1991, at its regular monthly meeting, the Zoning Commission considered a memorandum dated December 4, 1991 from OP, which included a letter of the same date from counsel for the applicant. The letter contained proposed conditions of approval which the applicant believed would satisfy the concerns of the Commission, the applicant, and others. Neither OP nor OZ opposed the applicant's proposed language. No comments were received by the parties.

60. At that meeting, the Commission approved the following conditions, subject to the advice of the Corporation Counsel:

(11) Both of the residential and commercial components of the project shall be constructed in four (4) phases, as shown on Exhibit No. 5 (tab II, page 37) of the record, except that two or more phases may be constructed simultaneously pursuant to Condition No. 12 below. The Commission may approve an alternative development schedule without a public hearing.

(12) Pursuant to Condition No. 11 of this order, the following development schedule shall apply:

a. The applicant may construct and occupy two phases of commercial development before commencing residential development.

b. No building permit shall be issued for commercial phase #3 until a building permit has been issued for residential phase #1.

c. No certificate of occupancy shall be issued for commercial phase #3 until a certificate of occupancy has been issued for residential phase #1.

d. No building permit shall be issued for commercial phase #4 until a building permit has been issued for residential phase #2.

e. No certificate of occupancy shall be issued for commercial phase #4 until a certificate of occupancy has been issued for residential phase #2.

(13) The applicant shall post a one million dollar bond payable to the Office of Zoning prior to obtaining a certificate of occupancy for commercial phase #2. Thereafter, the applicant shall post a second bond in the amount of one million dollars payable to the Office of Zoning prior to obtaining a certificate of occupancy for commercial phase #4. In the event the applicant fails to complete all residential development within 12 years of acquiring the first commercial

occupancy permit, the applicant shall forfeit the two bonds in the amount proportionately reduced at 4,000 per unit to account for the number of residential units already completed.

61. Revised Condition Nos. 11, 12 and 13 were referred to NCPC for Federal impact review. NCPC, by report dated February 6, 1992 reiterated its earlier comments as contained in Finding of Fact No. 56. NCPC, however, determined that revised Condition Nos. 11, 12 and 13 would not adversely affect the Federal Establishment or other Federal Interests in the National Capital, nor be inconsistent with the Comprehensive Plan.

62. By memorandum dated January 21, 1992, the Office of Zoning, on behalf of the Zoning Commission, requested the advice of the Corporation Counsel about revised Condition Nos. 11, 12 and 13 and the operation and legality thereof.

63. The Office of the Corporation Counsel, by memorandum dated January 29, 1992, advised the Commission that it did not have the authority to implement the terms of Condition No. 13.

64. On February 10, 1992, at its regular monthly meeting, the Zoning Commission repealed its previous approval of Condition No. 13, and concurred that its inclusion was not necessary because, if allowed to operate, the existing District laws could effect the same incentive to deliver the residential units as the inclusion of that condition.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the Anacostia Waterfront area and the District of Columbia.

2. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned residential, commercial and mixed-use developments which offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

3. The development of the project is compatible with District-wide and neighborhood goals, plans and programs, and is sensitive to environmental protection and energy conservation.

4. The approval of this application is not inconsistent with the Comprehensive Plan of the National Capital as amended because it will: produce commercial and residential development at appropriate densities; be a catalyst for redevelopment of the Buzzard Point peninsula; strengthen the distinguishing physical qualities of the area; and increase employment opportunities.

5. The approval of the application is consistent with the purposes of the Zoning Act and the Zoning Map of the surrounding community or the District. The project will enhance and promote the revitalization of the area.

6. The application can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community of the District. The project will enhance and promote the revitalization of the area.

7. The approval of this application will promote orderly development 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.

8. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

9. The Zoning Commission has accorded ANC-2D the "great weight" consideration to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders that this application for second-stage review of a PUD for Square 602, Lot 801, with an amendment to the Zoning Map from W-1 and W-3 to CR, be **APPROVED.** The approval is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development shall be developed in accordance with the plans prepared by the architectural firm Mariani & Associates, part of the record in this case marked as Exhibit No.. 29B, as modified by Exhibits

37 and 51B and the guidelines, conditions and standards of this Order.

2. The PUD site shall be developed with a mixed use building including residential and commercial uses with below-grade parking.

3. The maximum height of the building shall not exceed 110 feet, excluding roof structures. No portion of the PUD project shall exceed a height of forty (40) feet within 115 feet of the Ft. McNair property line. No portion of the PUD project shall exceed a height of sixty (60) feet within 165 feet of the Ft. McNair property line. No portion of the PUD project shall exceed a height of 90 feet within 224 feet of the Ft. McNair property line.

4. No portion of the PUD project shall be within fifty (50) feet of the eastern line of Ft. McNair.

5. The floor area ratio (FAR) of the project shall not exceed 5.3, excluding roof structures, including a maximum FAR of 3.3 for non-residential uses and a minimum FAR of 2.0 for residential uses.

6. The overall lot occupancy shall not exceed seventy-five (75) percent.

7. Landscaping shall be provided as shown on the plans prepared by Stephenson & Good marked as Exhitbit 29B as revised by Exhibits 37 and 51B of the record.

8. Antennas shall be permitted on the roof of the building subject to the applicable Zoning Regulations.

9. The applicant shall provide twelve (12) loading berths in accordance with the Circulation Plan submitted to the record as Exhibit 29B as revised by Exhibits 32 and 51B.

10. The applicant may provide 2,150 parking spaces within a three level underground parking garage and shall provide no less than the minimum number of parking spaces as required by the Zoning Regulations. One level of the three story garage may be eliminated so long as adequate parking spaces consistent with the Anacostia Waterfront Master Plan recommendations can be accommodated on two levels, including the use of vault space and compact car spaces.

11. Both the residential and commercial components of the project shall be constructed in four (4) phases, as shown on Exhibit No. 5 (tab II, page 37) of the record, except that two or more phases may be constructed simultaneously pursuant to Condition No. 12 below. The Commission may approve an alternative development schedule without a public hearing.

12. Pursuant to Condition No. 11 of this order, the following development schedule shall apply:

    a. The applicant may construct and occupy two phases of commercial development before commencing residential development.

    b. No building permit shall be issued for commercial phase #3 until a building permit has been issued for residential phase #1.

    c. No certificate of occupancy shall be issued for commercial phase #3 until a certificate of occupancy has been issued for residential phase #1.

    d. No building permit shall be issued for commercial phase #4 until a building permit has been issued for residential phase #2.

    e. No certificate of occupancy shall be issued for commercial phase #4 until a certificate of occupancy has been issued for residential phase #2.

13. Project materials shall be brick, cast stone, pre-cast concrete and non-reflective glass.

14. To mitigate the security concerns of the United States Army (Army), the applicant and all successors in interest shall:

    a. Provide the Army access to the site during construction to verify the Ft. McNair site security profile and the siting of required United States Secret Service (USSS) obscuration material pilings;

    b. Provide the Army access to roofs and alcoves in the building profile to allow the Army to sweep the scheduled visits by the President of the United States;

c. Install an access control security system for the new complex when completed that includes a verification-upon-entry procedure; and

d. Conduct liaison meetings with security officials during the start-up and continuity of the complex for the exchange of information and pertinent data.

15. The applicant shall pay its proportionate, pro rata share of infrastructure improvements in the Buzzard Point peninsula, commensurate with the pro rata contribution of other private landowners in the peninsula, in accordance with formulas determined by the Anacostia Waterfront Master Plan or other plan for the Anacostia Waterfront officially adopted by the District.

16. The applicant, in conjunction with public entities and other landowners in the Buzzard Point peninsula, shall implement a shuttle bus or other public transportation service between the PUD site, the completed Navy Yard and Waterside Mall Metrorail Stations.

17. The applicant shall be required to provide the following amenities:

a. The provision of not less than 500 on-site residential units; and

b. Restriction on construction traffic circulation patterns. The applicant shall restrict construction traffic on 4th, P, Half and 1st Streets, S.W., and shall require all applicable contracts under its control to contain language encouraging construction traffic to utilize the major arteries including Potomac Avenue and South Capital Street for site access.

18. The applicant shall comply with: the executed Department of Employment Services First Source Agreement; the Minority Business Opportunity Commission Memorandum of Understanding; the Department of Human Rights and Minority Business Affirmative Action Plan; and the Community Participation Plan.

19. The applicant shall have the flexibility on the final detailing of the proposed building to:

(a) Vary the number of residential units to allow for larger or smaller units, in response to market conditions so long as there are no less than 500 residential units at the site. An increase or reduction in the number of residential units would not result in the reduction of gross square footage devoted to residential use;

(b) Increase the amount of FAR devoted to residential use so long as the maximum building envelope does not exceed 5.3 FAR;

(c) Change the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, so long as the variations do not change the exterior envelope of the building including the penthouse;

(d) Make minor adjustments in the facade window detailing, including the flexibility to shift the location of the doors to any retail uses on the ground floor to accommodate the retail uses; and

(e) Modify the parking and loading plans, depending on the project phasing.

20. No building permit shall be issued for the project until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Office of Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). The covenant shall bind the owner and all the successors in title to construct on and use the property in accordance with this Order and amendments thereto of the Zoning Commission.

21. The amendment to the Zoning Map from W-1 and W-3 to CR for the PUD site shall be effective upon recordation of the PUD covenant, as required by 11 DCMR 2407.

22. The Office of Zoning shall not release the record of this case to the Zoning Division of the (DCRA) until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

23. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, applicant must file for a building permit as specified in 11 DCMR 2407.1 and 2406.8. Construction shall start within three years of the effective date of this Order.

24. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Acts of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this Order shall be understood to require the Zoning Division/DCRA to approve permits, if the applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public meeting on June 13, 1991: 3-2 (Lloyd D. Smith, William L. Ensign and Maybelle Taylor Bennett, to approve - John G. Parsons and Tersh Boasberg, opposed).

Revised Condition Nos. 11, 12 and 13 of this order were approved, subject to the advice of the Office of the Corporation Counsel (OCC), on December 9, 1991 by a vote of 3-2 (Lloyd D. Smith, William L. Ensign, and Maybelle Taylor Bennett, to approve subject to OCC - John G. Parsons and Tersh Boasberg, opposed).

This order was adopted by the Zoning Commission at the public meeting on February 10, 1992 by a vote of 3-2 (Lloyd D. Smith, William L. Ensign, Maybelle Taylor Bennett, to adopt as amended - John G. Parsons and Tersh Boasberg, opposed).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on FEB 28 1992.

Maybelle Taylor Bennett
MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

Madeliene H. Robinson
MADELIENE H. ROBINSON
Acting Director
Office of Zoning

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