

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-03A(1)  
Z.C Case No. 11-03A  
Hoffman-Struever Waterfront, LLC  
(Second-Stage Planned Unit Development – Southwest Waterfront)  
Overall Plan Elements, Parcel 2, Temporary Uses on Parcel 1,  
Transit Pier, and Adjacent Spaces  
January 14, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held public hearings on June 28, July 2, July 12, July 23, and July 31, 2012, to consider an application for a second-stage planned unit development (“PUD”) filed by Hoffman-Struever Waterfront, LLC, (the “Applicant”) on behalf of Vestry of St. Augustine’s Church and the District of Columbia, through the Office of the Deputy Mayor for Planning and Economic Development, the current owners of the property. The project site is generally bounded by the Washington Channel of the Potomac River and Maine Avenue, between 11<sup>th</sup> Street on the west to 6<sup>th</sup> Street on the east, all in Southwest Washington. The Commission approved the Stage 1 PUD application for this project by order dated December 16, 2011, in Z.C. Case No. 11-03. This Stage 2 PUD application encompasses the portion of the project site known as Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, the Transit Pier, the District Pier, the Yacht Club Piazza, the Mews, Jazz Alley, 7<sup>th</sup> Street Park, and Waterfront Park, as well as temporary uses on Parcel 1 (the “Application”). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The Commission divided the Application into four discreet segments corresponding to the four parcels and adjacent spaces, with each segment considered on a separate hearing date. Upon a motion made by the Applicant, the Commission granted a request to deliberate and vote on each segment separately, and issue separate orders accordingly. The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves this segment of the Application for the Overall Plan Elements, Parcel 2, the temporary uses on Parcel 1, the Transit Pier, and adjacent spaces (“Parcel 2 PUD”).

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**FINDINGS OF FACT**

**The Applications, Parties, and Hearings**

1. On February 3, 2012, the Applicant filed an application with the Commission for second-stage review and approval of a PUD for the following land and adjacent riparian areas of the Washington Channel: Lots 804, 805, 806, 822, 823, 824, 825, 826, 827, 828, 831, and 849, and portions of Lots 839 and 850 in Square 473. The Application also included the land owned by the Vestry of St. Augustine's Church at Lots 83 and 814 in Square 473 ("Parcel 11"). The Stage 2 PUD contains approximately 991,113 square feet of land, as well as piers and docks in the riparian area. The property is presently improved with buildings and improvements constructed under the Southwest Urban Renewal Plan for the Southwest Waterfront. The Applicant intends to redevelop the PUD site to implement the city's revitalization plan for a new, mixed-use Southwest Waterfront.
2. By report dated March 30, 2012, the Office of Planning ("OP") recommended that the Application be set down for a hearing. At its public meeting held on April 9, 2012, the Commission voted to schedule a public hearing on the Application. At that same meeting, the Commission determined to divide the project into four segments and consider each segment individually on a separate hearing night, as follows:

<b><u>Hearing Date</u></b>	<b><u>Topic</u></b>
June 28, 2012	Parcel 2, the Combined Heating & Power Plant, Parcel 1 temporary uses, and the Transit Pier
July 2, 2012	Parcel 3A, Parcel 3B, District Pier and Pier & Avenue Mews
July 12, 2012	Parcel 4A, Parcel 4B, Capital Yacht Club, Yacht Club Plaza, Piazza Mews, Jazz Alley, and 7th Street Park
July 23, 2012	Parcel 11A, Parcel 11B, and Waterfront Park

The Commission also established separate deadlines for requests for party status for each segment of the hearing. The Commission added a final hearing night on July 31, 2012, to review the architectural designs approved in concept by the U.S. Commission of Fine Arts at its July 19, 2012, meeting, and to receive rebuttal testimony and hear closing arguments from the Applicant.

3. On June 8, 2012, the Applicant submitted a pre-hearing statement for the Overall Plan Elements, Parcel 2, temporary uses on Parcel 1, the Transit Pier, and related spaces ("Parcel 2 PUD"), along with several architectural drawings to respond to issues raised by the Commission and OP. (Exhibit ["Ex.,"] 25, 26, 27, and 28.) The Applicant also filed a supplemental statement with additional architectural drawings and information on June 12, 2012. (Ex. 29, 30.)
4. A description of the proposed development and the notice of the public hearing in this matter were published in the *D.C. Register* on May 11, 2012. The notice of public hearing was mailed to all property owners within 200 feet of the PUD site as well as to Advisory Neighborhood Commission ("ANC") 6D. On June 28 and July 31, 2012, the Commission held a hearing to consider the Parcel 2 PUD segment of the Application.
5. The parties to the Parcel 2 PUD case were the Applicant, ANC 6D, and the Gangplank Slipholders Association ("GPSA"). The Commission denied party status to Seven Seas Cruising Association as not meeting the requirements under the Commission's rules.
6. At the June 28, 2012 hearing night, the Applicant presented five witnesses in support of the Parcel 2 PUDs. Shawn Seaman, on behalf of Hoffman-Struever Waterfront LLC; Stanton Eckstut, Perkins Eastman Architects; Michael Fischer, Rockwell Group; Robert Schiesel, Gorove/Slade Associates; and Robert V. Sloop, Moffatt & Nichol. Based upon their professional experience and qualifications, Mr. Eckstut was recognized as an expert in architecture; Mr. Fischer an expert in design of retail and waterfronts; Mr. Schiesel as an expert in transportation engineering and planning; and Mr. Sloop as an expert in marina design and engineering. At the July 31, 2012 hearing night, Steven Bliss of Bliss Fasman testified in support of the application as an expert witness in lighting design.
7. Matthew Jesick, Development Review Specialist at OP, and Jamie Henson of the District's Department of Transportation ("DDOT") testified in support of the Parcel 2 PUD with certain comments and conditions.
8. At its meeting on July 30, 2012, which was duly noticed and at which a quorum was present, ANC 6D voted 4 - 3 to support the Application, with conditions.
9. Eric Slaughter and Richard Westbrook testified as a person in support of the Parcel 2 PUD. The Commission received letters in support from the following: Congresswoman Eleanor Holmes Norton, Councilmember Tommy Wells of Ward 6, Washington Area Bicyclist Association, Ward 8 Workforce Development Council, Disabled American Veterans, Mandarin Oriental Hotel, Entertainment Cruises, D.C. Dragon Boat Club, Cultural Tourism D.C., Carl Cole, Arena Stage,

- Anacostia Watershed Society, American River Taxi, D.C. Students Construction Trade Foundation, Deanwood Heights Main Streets, Inc., Capitol Square at the Waterfront, Community Benefits Coordinating Council, and the Riverside Condominium Association.
10. The following persons testified in opposition to the Parcel 2 PUD: Bernisse Lester, Rosemary Strange, David Masters, Deborah Ruttenberg, Gene Solon, Phillip Johnson, Bill Trayfors, Cara Shockley, and Ron McBee. The Commission received letters in opposition from the following: Seven Seas Cruising Association, Potomac River Yacht Clubs Association, Quentin Borges-Silva, and Kael Anderson.
  11. At its public meeting held on September 24, 2012, the Commission requested the Applicant to submit additional information regarding carsharing and electric vehicle stations, the final agreement with the GPSA, the potential to restudy the penthouse on the Parcel 2 building, and an update on the status of efforts with Washington Gas Energy Services to implement the Combined Heating and Power Plant. The Commission also requested a final report from DDOT on the Applicant's final transportation report and curbside loading and management plan. On October 9, 2012, the Applicant submitted the requested information and DDOT provided its supplemental report. (Ex. 235–235E, 239.)
  12. On November 14, 2012, the Commission took proposed action to approve with conditions the Parcel 2 PUD.
  13. The Parcel 2 PUD was referred to the National Capital Planning Commission (“NCPC”) for review of any impacts on the federal interest under the Comprehensive Plan.
  14. In a letter dated December 12, 2012, the NCPC Executive Director stated that at a meeting held December, 12, 2012, NCPC voted to adopt an action through which it commented favorably on the portion of the Phase 1, second-stage PUD, that included Parcels 2, 3, and 4 in addition to several open spaces; in-water development; and development of The Wharf itself. The comment did not extend to Parcel 11 because the Commission had not yet taken proposed action. (Ex. 262.)
  15. The Commission took final action to approve the Parcel 2 PUD on January 14, 3013.

**The PUD Project**

16. The Southwest Waterfront project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement ("LDA") for its development. The District of Columbia, as owner of all the property in the PUD site except for Lots 83 and 814 in Square 473, the Vestry of St. Augustine's Church, the owner of Lots 83 and 814 in Square 473, and Hoffman-Struever Waterfront, LLC, the master developer selected by the District to implement the project, submitted their application for approval of a Second-Stage PUD to fulfill the revitalization plan envisioned by the District to reactivate the Southwest Waterfront. The project site fronts on the Washington Channel in Southwest Washington and is generally bounded on the northwest by the Maine Avenue Fish Market and Case Bridge (part of the highways comprising the 14<sup>th</sup> Street Bridge), Maine Avenue to the northeast, Washington Channel to the southwest, and on the southeast by N Street, S.W and 6<sup>th</sup> Street, S.W.
17. Pursuant to the Stage 1 PUD approval, the entire project will include an aggregate floor area ratio ("FAR") of 3.19, which includes the private streets in the project area, or approximately 3,165,000 square feet of gross floor area. The density excluding the private streets is approximately 3.87 FAR. Proposed uses will include approximately 1,400 mixed-income and market rate residential units, with 160,000 square feet of the gross residential space set aside for households earning no more than 30% and 60% of the Washington–Arlington–Alexandria, DC–VA–MD–WV Metropolitan Statistical Area median income ("AMI"); approximately 925,000 square feet of office space; a luxury hotel with a total of 278 guest rooms, and two additional hotels with approximately 405 rooms; approximately 300,000 square feet devoted to retail uses; a minimum of 100,000 square feet devoted to cultural activities; and more than 10 acres of parks and open space on the land side. The riparian area will feature four public or public use piers, as well as approximately 80,000 square feet of maritime-related commercial, recreational, and service development.
18. This first Stage 2 PUD application proposes the development of six buildings on four different parcels. It will also encompass the creation of new public and open spaces known as the Wharf, The Transit Pier, the District Pier, the Piazza Mews, the Avenue Mews, the Pier Mews, and Jazz Alley (collectively the "Mews"), the Yacht Club Piazza, the 7<sup>th</sup> Street Park, and Waterfront Park. Parcel 1 will also be improved with a temporary parking lot/event space.
19. The Parcel 2 PUD that is the subject of this order encompasses Parcel 2, the Combined Heating & Power ("Co-generation") Plant, Parcel 1 temporary uses, the Transit Pier, and the Overall Design Elements.

**The Applicant and Development Team**

20. The master developer and Applicant of the PUD project is Hoffman-Struever Waterfront, LLC, doing business as Hoffman-Madison Waterfront, LLC. The Applicant is processing this Stage 2 application on behalf of the Deputy Mayor's Office for Planning and Economic Development and the Vestry of St. Augustine's Church. The Applicant's team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development and Triden Development, as well as District-based CityPartners.

**Approved Stage 1 PUD Development Parameters**

21. Under the Stage 1 PUD, the Commission approved the parameters for the development of the Southwest Waterfront, as shown on the architectural plans submitted to the record. The PUD order authorizes a landside density of 3.87 FAR, excluding private rights-of-way, with a combined gross floor area of approximately 3,165,000 square feet. Waterside uses may have a maximum potential density of 0.68 FAR, or 114,000 square feet of gross floor area. (*See* Z.C. Order No. 11-03, at p. 33 (Condition Nos. A-1 and A-2).)
22. The Commission authorized a maximum building height of 130 feet on Parcels 1 through 4 and 6 through 9, which were rezoned to the C-3-C Zone District. Construction on Parcel 5, also located in the C-3-C Zone District, may not achieve a height greater than 110 feet. The new development on Parcel 11 will consist of two segments: a church on the north portion of the site, known as Parcel 11A, and a residential building on the south portion, known as 11B. The proposed residential building on Parcel 11B, located in the R-5-B Zone District, may not exceed 45 feet in height, or an overall height of 57 feet with an occupied penthouse, as shown on the approved drawings submitted to the record. The height of the church building on Parcel 11A may not exceed 45 feet in height (or 49 feet to the highest point of the sloped roof), consistent with the approval in Z.C. Order No. 11-03. The height of the church excludes glass parapets and bell tower, architectural and liturgical embellishments that may extend beyond the maximum roof height of 49 feet. The building on Parcel 10, located in the W-1 Zone District, may not exceed 60 feet in height. (*Id.* (Condition No. A-3).)
23. With respect to parking facilities for the project, the Commission authorized the construction of one or more below-grade parking structures on two to three levels that are required to provide spaces for approximately 2,100-2,650 vehicles. The PUD project is also required to provide parking or storage for 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the

site. The precise amount of parking and loading is to be determined in each Stage 2 PUD application. (*Id.*)

24. Consistent with the phased development endorsed by the Commission, the first Stage 2 PUD application filed by the Applicant encompassed Parcels 2, 3, and 4. Additionally, in order to accomplish the development needs of St. Augustine's Church, the application included Parcel 11, as well as a temporary parking lot/event space on Parcel 1. Parcel 5, which was originally contemplated as part of this first phase of development and described in the Applicant's Notice of Intent to File a PUD, was ultimately not included with this application.<sup>2</sup>

### **Overview of the Project Design Intent**

25. The Southwest Waterfront PUD has been designed to reunite the city with the water's edge and re-enliven it with a mix of uses and year-round urban vibrancy. The concept is to bring the city's unique urban qualities of buildings with street walls and dynamic public open spaces to this area, while recalling the thriving commercial aspects of the historic working waterfront that once lined the Washington Channel. This working wharf once connected the upland city streets to the maritime edge, and was characterized by an industrial warehouse district with a focus on maritime activities.
26. As described during the approved Stage 1 PUD, the new development will provide a mix of uses to ensure an active waterfront throughout the year, day and night. The PUD as been designed as a series of "places," not projects. Each place is the integration of architecture and landscape designed to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
27. The plan for the waterside has been fully integrated with the land plan. The project will incorporate four new public use piers along the Washington Channel, allowing public-use access into the Channel for the first time. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. A host of other tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide much more activity and many more reasons for the public to use the waterfront and engage in water sports and activities. The waterside development and new pierhead line will extend to the limit of the federal navigational channel, as approved through permit number

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<sup>2</sup> The Stage 2 PUD application for Parcel 5 was subsequently filed on September 24, 2012, as Z.C. Case No. 11-03B and is presently under consideration by the Commission.

2011-00766 (SOUTHWEST WATERFRONT REDEVELOPMENT/THE WHARF) issued by the U.S. Army Corps of Engineers. The boundary of the waterside development is co-terminus with the PUD boundary shown on Sheet 2.1 of Volume 0 of the drawings. (Ex. 200A.)

### **Parcel 2 Proposed Development**

28. Parcel 2 is located at the northwestern end of the PUD site. The new development on Parcel 2 will consist of a multi-purpose entertainment and cultural venue, ground floor retail space; a co-generation plant; and two residential "towers" above the entertainment venue. The building will have a total of approximately 606,087 square feet of gross floor area ("GFA") and a height of 130 feet. The entertainment venue will consist of approximately 142,514 square feet of GFA; the residential buildings will have 489 units with approximately 398,867 square feet of GFA; the retail space will consist of approximately 47,797 square feet of GFA; and the co-generation plant will have approximately 16,909 square feet of GFA. Perkins Eastman-DC is the architect for the building, with the Rockwell Group as the designer of the multi-purpose entertainment/cultural venue.
29. The Parcel 2 land area consists of 91,287 square feet but is part of the larger proposed lot of record that will encompass Parcels 1, 2, 3, 4, and 5, as shown on Sheet 1.13 in Exhibit 200A1 in the record ("Proposed Lot 1"). The Applicant proposes to locate multiple buildings on this single lot of record as permitted under § 2517. The overall land area of Proposed Lot 1 is 489,362. Together with the other proposed buildings in this first Stage 2 PUD application, Proposed Lot 1 will be developed with a total of 1,463,970 square feet of GFA, which equates to an overall density of 2.99 FAR.
30. The base, or "podium," of the Parcel 2 building will be five stories in height plus a mezzanine level, with the development above bisected in half on the diagonal to create two residential buildings on the outer corners of the site. The opening between the two buildings will create a dynamic elevated viewshed from 10<sup>th</sup> Street and Banneker Overlook across the site toward East Potomac Park. The roof will include a terrace area for residents to provide an attractive outdoor gathering spot while at the same time enhancing the elevated viewsheds across the building. As originally submitted in the Stage 1 PUD, the height of the five-story base was 63 feet, eight inches. As proposed in this Stage 2 application, the height has been reduced to 60 feet, eight inches, and thus does not exceed the parameters of the Stage 1 approval.
31. The multi-purpose entertainment and cultural venue is entered from the Wharf to create a dramatic interactive pedestrian experience along the development's waterfront. Retail spaces line the southeast and southwest sides of the building

opening on to the Wharf and the District Pier, respectively. The District Pier will connect Maine Avenue to the Wharf and provide significant public access to the water. It will create a distinctive environment incorporating theater activities and unique retail spaces.

32. The entrance lobby to the west residential building is located at the southwest portion of the building along the Wharf. The east residential building is accessed off of Maine Avenue with a convenience lobby entrance off of the District Pier. The variety of residential entry options and locations will allow for increased pedestrian activity along the Wharf, Maine Avenue, and the District Pier while enhancing resident convenience and flexibility.
33. The form of the building originates from several major influences and programmatic needs. The language of the materials and their disposition is based on a set of design guidelines written at the beginning of the master planning process. Its intent is to define a wharf-like environment at the lower "podium" level that is scaled for the pedestrian and retail experience. Brick of different colors and proportions are punctuated by significant glazed openings that showcase the various retailers within to help animate the street level and provide a welcoming and inviting pedestrian environment. Additionally, the podium level allows for significant canopies and signage opportunities, pedestrian-level lighting, and storefront displays and entries. The massing and materials respond to the different adjacencies of the building: the Wharf, District Pier, and Maine Avenue. The three-story co-generation plant, which, if feasible, will be located at the north corner facing Maine Avenue and will help promote the use of on-site sustainable energy production and provide an opportunity for public education.
34. Above the podium level, there are two residential towers that are shaped by both the elevated view corridor down the L'Enfant Promenade and from Banneker Overlook to the north as well as the multi-purpose entertainment and cultural space below. The materials and massing serve to visually reinforce the entry to the District Pier from both Maine Avenue and the Wharf, reduce the overall perceived mass and scale, and allow the residential nature of the building to be evident to the passerby.

### **Co-Generation Plant**

35. As presently designed, the building is anticipated to include a combined heating and power ("CHP") or "co-generation" facility that will provide a significant portion of the necessary electrical, heating, and cooling power sources for the PUD site area northwest of 7<sup>th</sup> Street. The co-generation plant offers broad environmental benefits by offering significant reductions in the amount of coal-fire produced electricity that is consumed and using the efficiencies of the

electrical generation process to create a district heating and cooling system for the project. It will re-use much of the site's on-site stormwater as part of the facility's cooling elements. The co-generation plant is a highly progressive sustainable amenity that will help to reinforce the Project's commitment to the environment.

36. The CHP, if feasible, will be located at the northwest corner of the Parcel 2 building. It will be expressed on the exterior with mullioned glass to allow the industrial nature of the plant to be visible from the street. In the event the utility companies and the Applicant have not yet resolved critical design features by the time construction drawings need to proceed, the Applicant has submitted an alternative design for the building that converts the ground floor level to retail space and reallocates cultural and residential uses to the upper level spaces that were designated for CHP use. The Applicant requested flexibility from the Commission to proceed with either option, as shown in Sheets 1.47–1.49 of Volume I of the drawings. (Ex. 201A6.)

### **Parcel 1 Temporary Uses**

37. Parcel 1 was approved in the first-stage PUD for an office building and will be the subject of a future second-stage application. In the interim, the Applicant will use Parcel 1 as a parking lot and periodic farmers' markets, arts and crafts festival site, and/or for similar market and festival uses. Parcel 1 would also include a ramp down to the parking garage that had previously been included in designs for Parcel 2. During the temporary use period, Parcel 1's appearance will be enhanced with landscaping and hardscaping, as shown in Volume I of the drawings. The Applicant will also use the area known as Market Square, as approved as part of the first-stage PUD, as an interim surface parking lot.

### **Dock Relocation Plan**

38. As part of the waterside development, the old docks will be demolished to allow for construction of the new docks and piers. As part of the Parcel 2 PUD, the majority of the existing Capital Yacht Club ("CYC") docks will be removed and replaced by the Market Pier and Docks and the Transit Pier. The CYC boats will be relocated as new docks are constructed. The existing live-aboard community that is part of the Gangplank Marina will be relocated as part of this first phase of waterside development, as shown on the Waterside Transition Plans, Sheets 5.1–5.4, included in the Overall Plan Elements. (Ex. 200A8.)

### **Open Spaces and Thoroughfares**

39. As one of the amenities of the project in the Stage 1 PUD, the Applicant is obligated to provide certain public-use piers, public parks, open spaces, roads, and

other public-use spaces or infrastructure as prescribed by the Land Disposition Agreement with the District, which are referred to as Reconveyance Property, that is, portions of the PUD site to be reconveyed to the District. The Applicant must also provide for the maintenance as well as the use, operation and programming of the Reconveyance Property, including the closing of streets, holding of public and private events, and other uses and activities that may occur in these areas.

The Wharf

40. As described in the Stage 1 PUD, the Wharf will be, first and foremost, a pedestrian environment adjacent to the Washington Channel, but it also will operate to allow for low-speed, low-volume vehicular access to business fronts, restaurants, elderly and disabled passenger drop off, and valet parking along the water's edge. The Wharf will have the flexibility to be closed periodically for special events and certain nights and weekends to emphasize and enhance the pedestrian experience while still maintaining emergency access.
41. Approximately 1,250 linear feet of the Wharf, consisting of granite block pavers and/or unit pavers, will be constructed in this Phase 1 application. The Wharf will be developed primarily as a curbsless "shared space" that uses innovative physical design elements to limit vehicular speed, provide a safe pedestrian environment, and create a seamless and flexible space that is highly adaptable. It will utilize non-traditional traffic calming devices to specifically discourage high-volume, high-speed, vehicular thru-traffic. These include a variety of hardscape elements and street fixtures such as planters, bollards, paving patterns, site furniture, railings, planting areas, flush curbs, textures, water features, trench drains, and other tools to designate pedestrian-only zones from shared zones. A continuous pedestrian zone has been provided throughout the entire length of the Wharf and the overall design will include references to the history of the Southwest Waterfront in subtle and overt ways. The Wharf will be programmed carefully to mix pedestrian uses, vehicular uses, and commercial uses such as kiosks and café zone within its typical 60-foot width.
42. Innovative stormwater management designs have been carefully integrated into the Wharf design. Significant low impact development ("LID") zone-type plantings, which provide for a non-compacted soil media for the trees along the Wharf, will be included as well as a monumental reuse cistern. A double row of London Planetrees along the edge of the channel will provide cool shade for walking and sitting pedestrians, reduce urban heat island effect, reuse collected stormwater, and aid in associating the promenade's proximity to the water with the easily identifiable riparian trees. These measures will add to the pedestrian experience and drastically reduce or eliminate the stormwater runoff that enters

the Washington Channel and will help to improve the health of the Potomac River watershed.

Maine Avenue

43. The first Stage 2 PUD application proposes improvements along Maine Avenue from the south side of 7<sup>th</sup> Street Park to the north edge of Parcel 2. As contemplated in the approved Stage 1 PUD, Maine Avenue will be the city-side of the project area along on the northeast frontage of the site. Automobiles will turn from Maine Avenue into the mews streets alongside of the buildings to enter garages and service areas. Vehicular garage entries were purposefully designed to be at locations other than directly off of Maine Avenue or the primary pedestrian spaces and parks, such as District Pier and 7<sup>th</sup> Street Park, in order to provide a positive pedestrian experience and to provide for a variety of vehicular entry and exit options which will ease congestion and reduce impacts on the pedestrian environment.
44. Maine Avenue will be recast as an urban boulevard with 24-hour parallel parking along the curb on both sides of the street (as coordinated with DDOT) while maintaining the central median. The project buildings that front on Maine Avenue have been set back from the property line approximately 15 feet, except for bay projections and shop windows, and similar projections, to allow for variety, texture, and a generous sidewalk and planting zone as well as dedicated bicycle facilities. The utility relocation work in the Maine Avenue right-of-way has been carefully designed and coordinated with DDOT to permit for the potential future installation of streetcar tracks and infrastructure along the Maine Avenue corridor once the final alignment has been selected. The streetscape is designed with bus stops that can facilitate the planned reinstatement of the Circulator bus route and which can also be utilized in the future by streetcar service.
45. Maine Avenue will help connect the PUD to the surrounding neighborhood and the rest of the city. Newly planted Willow or Shumard Oak trees will match the existing Oaks along Maine Avenue. Twin 20 and Tear Drop light fixtures, trash and recycling containers, parking meters, and transit facilities will also continue the pattern of streetscape furnishings for the surrounding area.
46. A 10-foot-wide, bi-directional, grade-separated bicycle path facility has been designed for the entire length of Maine Avenue, which will be constructed in segments with each Stage 2 PUD. This route will be the final link in the Anacostia Riverwalk Trail and will provide safe and convenient bicycle connectivity along the site and to points north including the 14<sup>th</sup> Street Bridge and National Mall. Significant bicycle parking and two Capital Bikeshare stations are

- planned for Maine Avenue. Bicycle specific striping and signalization have been planned to help increase the safety of all road and sidewalk users. Sidewalk pedestrians are safely separated from bicycle traffic by a five-foot planting and cafe seating area. In addition, passengers unloading from parked cars can travel along a 1.5-foot-wide curb walk to preferred bicycle path crossing points at the ends and middle of each block.
47. Like the Wharf, the Maine Avenue sidewalk reconstruction has been designed to incorporate a LID zone planting area, which collects stormwater from the sidewalk and contributes to the site's overall stormwater management plan. Additionally, the surface of the bicycle path is anticipated to be a permeable surface that helps reduce stormwater run-off. It will also help provide water to the critical root zone of the street trees along Maine Avenue. Permeable cobbles are placed between planting areas to provide for additional stormwater capture and treatment as well as locations for café seating. Significant efforts have been made to preserve healthy existing trees, including avoiding compaction of soil, design conflicts, and utilities in critical root zones. Two rows of newly planted trees are proposed with continuous soil trenches to provide tree canopy cover.
48. Intersections at 7<sup>th</sup> and 9<sup>th</sup> Streets will be reconstructed and new signalized intersections will be provided at the Fish Market entrance and at the intersection near Arena Stage. These intersection improvements include curb bulb-outs, striping, and other design features to increase the safety, visibility, and ease of pedestrian crossings. The Maine Avenue intersections with the news streets also include high visibility pavement marking and traffic control measures to protect pedestrians, cyclists, and vehicles.

## **Pier Facilities and Waterside Development**

### **Transit Pier**

49. The Transit Pier is located opposite Parcel 2 and will have generous open space adjacent to the Wharf before narrowing down to a more typical pier configuration. Within the wider section, terraced steps will provide seating for events, performances, river views and sunsets, and a location for water taxis, day tours, and music, theatrical, and sporting venues. The upper level of the pier will be at the same elevation as the adjacent Wharf.
50. The Transit Pier will take on a triangular shape that allows for the dynamic interplay between different program elements. Its shape negotiates a relationship with the overall layout of the waterfront parcels and site constraints imposed by the Metrorail infrastructure below. Combining clean geometries with a frugal

- palette of wood, metal, and glass, the design approach for the pier seeks to marry a contemporary aesthetic to the textures of traditional maritime architecture.
51. The Transit Pier Pavilion is a one-story building with a roof deck that runs along the south edge of the pier and houses (from east to west) a box office for the multi-purpose entertainment and cultural venue across the pedestrian thoroughfare, a water taxi ticketing counter and waiting area, restrooms, security and access control, and a snack bar/café to serve the passengers. Each of these program pieces receives expression on the building's façade through a different storefront treatment and orientation.
  52. Playing against the Pavilion's geometric regularity, a raised planter bound by an undulating two-tiered row of seating risers flanks the building's north face. Opposite the risers, at the triangular site's north point, a bosque of trees provides a porous boundary between the thoroughfare and the pier. Together, the bosque and the risers shape the northern and southern edges (respectively) of an impromptu performance space. Additional stepped seating and ADA access between the pier levels will occur at the pier's western edge, providing those seated with a view towards the cove.

#### Market Docks

53. The Market Docks will be newly constructed public floating docks for transient recreational vessels that will be located near the existing fish market. This will provide docking space for approximately 49 boats of various lengths. A majority of these slips will be available for visitor and touring boats that come to the Wharf and will offer stays as short as a few hours and as long as 10 days. This will provide a much-needed amenity to the touring boat community and will help to increase the opportunities for transient docking opportunities. The Applicant has received a boating infrastructure grant from the U.S. Fish & Wildlife Service to help fund the construction of these docks. The Market Docks will provide another source of pedestrian activity and visual interest along the waterfront.

#### Wharf Kiosks

54. Kiosks will be interspersed throughout the development along the Wharf. The project will provide "roughed-in" utilities and a flexible framework for the kiosks that can be filled in by individual tenants and users to adapt to their unique needs and to provide varied design concepts. These outdoor kiosk structures are designed to accommodate as incubator space for small local businesses, which can try out their retail concepts on a low-risk basis.

**Parking, Loading, and Site Circulation**

55. This first Stage 2 PUD will provide below-grade parking in a shared garage for approximately 1,095 vehicles. In addition, the overall PUD will include an additional 93 spaces in a garage on Parcel 11, and a temporary surface parking lot with approximately 64 spaces will be located on Parcel 1. Over 400 existing below-grade and surface parking spaces located in Phase 3 of the PUD project can be used on an interim basis until Phase 3 construction begins.
56. The main shared parking garage is accessed from the northwest end of the PUD site in Parcel 2 from Theater Alley between Parcels 1 and 2 and in Parcel 4 from the Avenue Mews between Parcels 3A and 4. A grand pedestrian stair and fountain has been designed into the center of the parking garage below the District Pier. This stair will bring natural light and air into the garage and help welcome visitors to the project by bringing them up into the District Pier, one of the major public spaces, which will increase the pedestrian traffic, vitality, and excitement of this key public space.
57. The garage will include electric vehicle charging stations and car-sharing parking spaces as shown on the supplemental drawing Sheet 1.15 dated October 9, 2012. (Ex. 235B.)
58. Loading facilities will be located at each building at the interior of the building sites and will be accessed off of the mews streets. These loading facilities have been carefully located and optimized to minimize the impact on the pedestrian environment while providing adequate space for managed on-site loading and service needs. Truck size and hours will be carefully managed on-site to facilitate the operational and programmatic needs of the site, pursuant to the loading and curbside management plan. (Ex. 196.)
59. Bicycle parking and storage will be located throughout the PUD site. While only 75 spaces are required, the project will be providing spaces for 1,500-2,200 bicycles throughout the entirety of the PUD site. In this Stage 2 PUD, 712 long-term and 120 short-term spaces for bicycles will be located in the shared parking garage. Additional bike spaces will be located in public areas in the Stage 2 PUD, as shown on Sheet 2.5 of Volume 0 of the drawings. (Ex. 200A3.) Great care and consideration has been taken in the selection and mix of bicycle parking facilities in order to provide a great variety of parking facilities for all bicyclists. This includes below-grade secured long-term parking for commuters and residents, above-grade racks conveniently located for short-term parking, publically accessible below-grade parking for medium-term parking and bicycle parking in inclement conditions. Capital Bikeshare stations will be installed at the intersections of Maine Avenue and 7<sup>th</sup> and Maine Avenue and 9<sup>th</sup> Street. These

facilities are located in highly visible and accessible locations and are sized to accommodate this increasingly popular mode of public transportation. The locations of the public bike racks and bike share stations are shown on Sheet 2.5 of Volume 0 of the drawings (Ex. 200A3).

60. Bicycle parking facilities have been selected to accommodate a wide range of bicycles types. Publically accessible air pumps and tool/repair stations will also be located throughout the project, as shown on Sheet 2.5 of Volume 0 of the drawings. (Ex. 200A3.) Bicycle facilities are treated as high quality street furniture that is seamlessly incorporated with the urban design of the project and will help to contribute to the project's sense of place.

### **Other Overall Plan Elements**

61. The Overall Plan Elements are also included with this Stage 2 PUD, which will provide a cohesive design and sense of place through an attractive and consistent treatment of pavement, site furnishings, storefronts, signage, and lighting. Shared pedestrian and vehicular spaces will be treated with a differentiation of textures and color variations to demarcate the different zones. Benches along the Wharf will provide a continuous seating area, with numerical markers to orient and guide visitors, and give a sense of the great length of the Wharf. Interpretive signage will also be located throughout the project to tell the history of the area. The signage for buildings and street names is designed to be relatively discrete but clearly marked and easily visible. Manhole covers, which will be required to service utilities, will also be treated with a uniform graphic as part of the overall plan elements. Storefront design guidelines and signage guidelines, as described in the drawings, have been developed for future retail and service providers to ensure a level of quality and aesthetic cohesiveness to the project.
62. The Applicant also developed an extensive lighting plan, with a hierarchy to reflect the extent and intensity of light required for the various uses within the project. The Commission expressed concerns about the initial plan but finds the subsequent plan as presented on the July 31, 2012 hearing night, and as included in the final drawings, to be sensitively and attractively developed.

### **Affordable and Workforce Housing**

63. The Stage 1 PUD requires the Applicant to set aside a total of 160,000 square feet of gross floor area to affordable housing throughout the project. Half of that amount must be affordable to households earning no more than 60% of the AMI for the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area and the remaining half affordable to households earning no more than 30% of AMI. The Stage 1 PUD order further requires the Applicant to

provide a minimum of 70,000 square feet of affordable housing in the first Stage 2 application.

64. In this overall Stage 2 PUD application, the Applicant proposes to construct approximately 795,212 square feet of gross floor area dedicated to residential uses, which equates to approximately 900 units, in five different buildings. Of that amount, contained within Parcels 2A, 2B, and 4A are a total of approximately 156,504 gross square feet, which equates to approximately 218 units, will be devoted to affordable or workforce units. This includes approximately 55,059 gross square feet of the affordable housing provided, or approximately 76 units, which will be made available only to households earning up to 60% of the AMI, approximately 48,505 gross square feet of the affordable housing, or approximately 69 units, which will be set aside for households earning up to 30% of AMI, approximately 34,507 gross square feet of the workforce housing, or approximately 48 units, which will be made available only to households earning up to 100% of the AMI, and approximately 18,433 gross square feet of the workforce housing, which equates to approximately 25 units, which will be made available to households earning up to 120% of the AMI. Additionally, in Parcel 11 there is a total of approximately 8,709 gross square feet, which equates to approximately 12 units, of Inclusionary Zoning housing. This includes approximately 4,307 gross square feet of inclusionary zoning housing, or approximately six units, which will be made available only to households earning up to 50% of the AMI, and approximately 4,401 gross square feet of inclusionary zoning housing, or approximately six units, which will be made available only to households earning up to 80% of the AMI. The breakdown of affordable units and their parcel location is shown on Sheets 4.1– 4.9 of Volume I of the drawings. The balance of the residential space will be devoted to market rate units. (Ex. 200A7, 200A8)

65. With respect to the Parcel 2A residential building, the Applicant will provide approximately the following level of affordable, workforce, and market-rate units with the approximate square footages shown:

Affordable (30% AMI)	21,546 SF of GFA (29 units)
Affordable (60% AMI)	26,800 SF of GFA (35 units)
Workforce (100% AMI)	12,150 SF of GFA (15 units)
Workforce (120% AMI)	7,776 SF of GFA (10 units)
Market Rate	163,069 SF of GFA (192 units)

66. With respect to the Parcel 2B residential building, the Applicant will provide the following level of affordable, workforce, and market-rate units with the approximate square footages shown:

Affordable (30% AMI)	16,317 SF of GFA (22 units)
Affordable (60% AMI)	13,163 SF of GFA (16 units)
Workforce (100% AMI)	11,565 SF of GFA (16 units)
Workforce (120% AMI)	5,942 SF of GFA (8 units)
Market Rate	120,540 SF of GFA (146 units)

67. Consistent with the Stage 1 PUD Order, the proportion of studio, efficiency, and one-bedroom Affordable Units to all Affordable Units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units within a mixed-income building.
68. The Southwest Waterfront PUD is the first PUD project in the District to incorporate a significant workforce housing component into such an economically diverse mixed-income housing program. The workforce housing at 100% AMI and 120% AMI fulfills a much needed housing affordability gap within the District.
69. The need for workforce housing affordability is a broader national trend that stems from the fact that most current measures utilized by housing affordability programs, the mortgage interest deduction excluded, are only available for, or heavily weighted towards, households that are below the 80% AMI threshold. This is evidenced by the Community Development Block Grant (“CDBG”) program which must dedicate at least 70% of its funds to benefit low- and moderate-income programs at or below 80% AMI, the HOME Investment Partnership program which only assists households below the 50%, 65%, or 80% AMI levels, the federally-regulated multifamily housing bond programs which must be primarily used for households with incomes up to 50% and 60% AMI, and the various housing trust fund programs that traditionally focus on households earning below 50% or 80% percent AMI.

**Sustainable (LEED) Development**

70. The Applicant has developed guidelines to ensure that the vertical development of this Stage 2 application has been designed in accordance with LEED-ND Gold objectives, in order to meet individual certification requirements and to comply with the overall larger framework of LEED-ND criteria. (See Z.C. Order No. 11-03, at p. 36 (Condition No. B-7)). With the exception of the church portion of the Parcel 11 building, each new building or vertical development component will achieve a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or higher. With the exception of the church portion of the Parcel 11 building, each building has also been designed to meet the LEED stormwater requirements for both quality and quantity in conformance with the certification process sought for each building. The buildings are tentatively designed to

achieve that rating as shown on the LEED score sheets included with the architectural drawings for each parcel of this Stage 2 PUD.

71. The LDA between Hoffman-Madison and DMPED requires the project to incorporate sustainable design criteria and pursue LEED 2009 for Neighborhood Development (LEED ND) certification by the Green Building Certification Institute (GBCI) at the Gold level or higher. LEED certification at the target level requires compliance with and documentation of all prerequisites and between 60 and 79 points.
72. In keeping with the approved Stage 1 PUD and the LDA, the overall project is designed and developed in its entirety to meet the requirements of the D.C. Green Building Act of 2006 that came into effect March 8, 2007. All individual buildings within the project, with the exception of St. Augustine's Church on Parcel 11, will pursue LEED certification with the GBCI at the Silver level or higher in compliance with the appropriate individual building certification system, New Construction (NC), Core & Shell (CS) or Commercial Interiors (CI).
73. Sustainable strategies include creating pedestrian-friendly streets by limiting speeds and the design of the streetscape; creating civic, public use spaces and basic services that are accessible on foot, and energy efficiency at the macro level.
74. The project incorporates progressive strategies to address the management and treatment of the large volumes of stormwater generated on site. This is being done through the use of extensive Low Impact Development zones along Maine Avenue and the Wharf, and within the 7<sup>th</sup> Street Park and Waterfront Park and through the construction of a monumental stormwater reuse cistern. The monumental cistern will collect up to the 3.2-inch storm event from the main parcel/Wharf area as required by the Anacostia Waterfront Development Zone stormwater regulations and will reuse a portion of it for on-site uses such as condenser water make-up (primarily through the makeup requirement for the CHP/Cogen plant). This stormwater reuse program treats stormwater as a resource instead of a liability, will be one of the most progressive in the nation, and will help to improve the health of the Potomac River Watershed and the overall Chesapeake Bay. All individual buildings within the project, with the exception of the church portion of the Parcel 11 building, will therefore meet or exceed the LEED NC & ND stormwater credits as appropriate to the rating system under which certification is being sought under. Individual buildings will also perform periodic water quality testing on the generated stormwater runoff from the site.

**Project Association**

75. The Applicant will create and manage a project association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks, and signage, within the PUD boundaries ("Project Association"). The Applicant will manage and operate the Project Association during the "developer control period," as defined in the Applicant's Declaration of Covenants with the District of Columbia. The developer control period begins upon the effective date of the Declaration of Covenants and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit. The project association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance ("CAM") assessment charge to each development component within the PUD. Additionally, the Project Association will be responsible for programming and staging events within the PUD.

**CBE and First Source Employment Opportunities**

76. The Applicant has entered into a Certified Business Enterprise ("CBE") Agreement, with the D.C. Department of Small and Local Business Development ("DSLBD") in order to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD.
77. The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the PUD project. (Ex. 209.) Prior to issuance of a building permit for any construction of the Parcel 2 PUD, the Applicant shall complete the Construction Employment Plan (referred to during the hearing as "page 11") of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trade Foundation, which is an affiliate of the Cardozo Trades Academy, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.
78. In a separate effort, the Applicant has committed that 20% of the retail space will be set aside for "unique" and/or "local" businesses. As defined under the LDA, a "local" business is a retailer that is either a CBE or a retailer headquartered in the District of Columbia. A "unique" business is a retailer owning or operating fewer

than eight retail outlets in the aggregate at the time such retailer enters into a retail lease at the PUD (inclusive of such retail outlet at the PUD). The Applicant will work collaboratively with business and community organizations throughout the District to identify potential small restaurateurs and retailers to help them lease and successfully operate these retail spaces. The Applicant will also have kiosks along the promenades, and in parks and other public spaces, where even smaller local businesses can try out their retail concepts on a low-risk basis; those kiosk operators who are successful may have the opportunity to move indoors, into one of the spaces reserved for unique and local business enterprises, thereby growing their business.

### **Workforce Intermediary Program**

79. Consistent with the Stage 1 PUD approval, the Applicant has committed to contributing \$1 million to the District's Workforce Intermediary Program. At the time of the Stage 1 PUD approval, the Applicant had already paid \$250,000 of that commitment. The Applicant will fund the remaining \$750,000 as part of this Stage 2 PUD upon the request of the District.

### **Project Benefits and Amenities**

80. In its Stage 1 approval of the PUD, the Commission evaluated the public benefits and amenities of the PUD, concluded they were an adequate tradeoff for the zoning flexibility requested, and required the Applicant to identify the benefits and amenities proposed for each Stage 2 application, as well as the overall status of the delivery of the benefits and amenities for other aspects of the PUD. This Stage 2 application delivers the appropriate benefits and amenities required by the Stage 1 order for this portion of the overall development.

### **Development Incentives and Flexibility**

81. *Roof structure setbacks:* Pursuant to § 411 of the Zoning Regulations, all penthouse roof structures are required to be setback one foot from the exterior walls of the building for each foot of vertical height of the penthouse. Here, the Applicant is proposing a penthouse height of 18 feet, six inches, thereby requiring a setback from the roof edge of 18 feet, six inches. As originally submitted, the Applicant sought a greater degree of relief from the setback requirements but redesigned the penthouses in response to comments from the Commission. The modest relief now required is the minimum needed to accommodate mechanical and elevator override equipment and required stair egress for penthouses, while preserving the two separate building masses for the residential towers and protecting the viewshed from Banneker Overlook through the project. The

Commission finds the relief can be granted because the reduced setbacks will not affect the light and air of units at the interior courtyard.

82. *Number of Residential Units:* The Applicant requested flexibility to provide a range in the number of residential units on Parcel 2 of plus or minus 10% from the number depicted on the plans. OP suggested that a smaller variation would result in more certainty about the potential benefits and impacts of residential uses on Parcel 2. Nevertheless, the Commission finds that 10% deviation requested is consistent with other PUDs, most recently for the project in Z.C. Order No. 11-12 (providing a range of 153-189 residential units). Consequently, the Commission finds the 10% deviation requested by the Applicant appropriate in this case as well.
83. *Cogeneration Plant:* The Applicant also requested flexibility to substitute the co-generation power plant, which may include micro-turbines, reciprocating engines or fuel cells, with other power sources. These alternative power sources may be located on Parcel 2 or within each of the individual buildings on the other building parcels. Any mechanical equipment required for the alternative power sources could be located within a building or on the roof of a building, provided the additional rooftop equipment meets the height and setback requirements of the Zoning Regulations. The Applicant further requested flexibility to enclose the additional rooftop equipment with walls of unequal height and in separate enclosures so as to reduce the bulk, mass, and appearance of the roof structures from street level.
84. No other zoning relief was requested or granted.
85. *Flexibility for Minor Design Details:* Additionally, the Applicant requested minor relief from the architectural details, materials, interior layouts, and other similar relief that is typical in PUD applications to allow for adjustments as designs develop into the construction detail phase. The Commission finds that such relief is also appropriate in this instance, as well, as noted in the conditions below.

### **Office of Planning Report**

86. By report dated June 18, 2012, OP recommended approval of the Parcel 2 PUD components, including the Wharf adjacent to Parcel 2, the Transit Pier and transit Pavilion, Parcel 1 Temporary uses, Market Square Temporary Design, Market Pier and Day Docks, Maine Avenue sidewalk area adjacent to Parcel 2, and the dock relocation plan. OP was also generally supportive of the overall massing, height, and use mix on the Parcel 2 building, but noted that additional refinement was needed before OP could make a final recommendation. The Applicant

provided revised drawings at the hearing on June 28 and July 31 in this matter, which OP endorsed during the hearing.

### **DDOT Report**

87. DDOT submitted a memorandum, dated June 18, 2012, in support of the PUD, with several recommendations. DDOT concluded that, after an extensive multi-administration review, that any adverse effects of the Phase I development could be mitigated, and that the Applicant had adequately documented the most likely extent of those impacts. DDOT also noted, however, that there are significant needs to be addressed in the local and regional transportation system to handle the pedestrian, transit, and vehicular traffic generated by the development, most of which the Applicant documented and addressed through their statement. DDOT recommended that an enforceable monitoring program for Transportation Demand Management be implemented to mitigate future impacts, should they arise.
88. In response to the DDOT report, the Applicant submitted a Supplemental Transportation Impact Study incorporating these recommendations in coordination with DDOT, as well as a Curbside Loading and Management Plan. The Commission finds that Applicant has satisfactorily addressed these concerns through its supplemental curbside management and loading plan submitted to the record on November 28, 2012. (Ex. 246, 246B.) The Commission further finds that the curbside loading and management plan adequately address the traffic and transportation concerns affecting the Parcel 2 PUD.

### **ANC Report**

89. On June 19, 2012, ANC 6D submitted its initial resolution to the record in opposition to the Application based on insufficient time to review materials provided by the Applicant. The ANC was concerned about issues raised by the GPSA; the relation of the project to the North; changes that might occur in the project as a result of USACE review and pending legislation affecting the Washington Channel; traffic; and concerns related to Kastles Stadium, Parcel 11, and the Waterfront Park.
90. On August 21, 2012, ANC 6D submitted a second resolution to the record rescinding its June 19 resolution and supporting the Stage 2 PUD, with conditions. The ANC requested the Commission to review the materials the Applicant submitted in response to the ANC. (Ex. 171-171CC2.) The ANC commented on the progress that had been made among GPSA, the Applicant, and the Deputy Mayor's Office for Planning and Economic Development in reaching an agreement on the successful continuation and accommodation of the live-

- aboard community. The ANC continued to express dissatisfaction with DDOT's analysis of the project because DDOT has not yet concluded its M Street SE/SW Transportation Plan. The ANC was also dissatisfied with DDOT's planning for the Circulator bus for Southwest Waterfront.
91. The ANC was pleased with the Applicant's First Source Employment and Certified Business Enterprise agreements, but requested assurances that the Applicant would comply with the terms of those agreements and institute the apprenticeship program also required under the LDA and PUD.
  92. The ANC also expressed concerns about other portions of the Stage 2 application, which are addressed in the separate orders for those segments.
  93. In response, the Commission concurs with the ANC's support for the project. The Commission shares the ANC's desire for the Applicant to abide by the terms of the First Source and CBE agreements and finds that there are adequate enforcement measures within the D.C. Department of Employment Services and the D.C. Department of Small and Local Businesses to assure compliance.
  94. With respect to the adequacy of DDOT's evaluation of the project in light of the M Street SE/SW Transportation Plan, the Commission finds that the Transportation Study prepared by the Applicant adequately and thoroughly evaluated the project for adverse impacts. The Commission finds that the project will feature progressive transportation demand management measures ("TDM") that will help maintain the roadway network at acceptable levels of service. DDOT's recommendation for additional TDM measures that can be implemented in the future, as warranted, successfully addresses current projects but also adequately protects against unanticipated traffic impacts. The Applicant and DDOT have continued to work collaboratively on the TDM program and have reached an agreement on the TDM approach, as indicated by materials submitted to the record on November 28, 2012. The Commission appreciates that the Applicant and DDOT have worked together collaboratively and concurs with DDOT's agreement to the Applicant's proposed TDM approach.
  95. The Commission accords great weight to the views of the ANC and finds that the Applicant has responded appropriately to each issue raised.

**Other Required Governmental Approvals**

96. The U.S. Commission of Fine Arts ("CFA") reviewed the conceptual plans for the Parcel 2 PUD pursuant to its authority under the Shipstead-Luce Act. CFA recommended approval of the Parcel 2 PUD on July 19, 2012.

**Gangplank Slipholders Association**

97. GPSA testified as a party in opposition to the Parcel 2 PUD. GPSA's concerns were focused on the status of the live-aboard community and mechanisms to assure its protection. GPSA requested a mechanism for transferring live-aboard status that protects the slipholders' investment in their vessels and encourages continued investment and upkeep during construction; a transition plan that covers not only boat movements but livability and affordability; recognition that preservation of the "unique live-aboard community" as recognized by the Commission during the Stage 1 PUD requires special attention to lighting, noise, visual privacy, and other project elements that would directly affect the slipholders' quality of life during and after construction; protections against delays in construction, interruption of services, increases in fees and changes in marina slipholder requirements. GPSA submitted for the record a proposed outline of minimum transition plan elements that it would like to see implemented.
98. GPSA also expressed specific concerns about the landside facilities essential to its successful function, such as marina security, access control, shipping and receiving rooms, restrooms, maintenance, and laundry facilities.
99. The Gangplank Marina will not be redesigned or developed as part of this Stage 2 PUD. However, portions of the existing Gangplank Marina will be removed to allow construction of the Phase 1 waterside plan. Prior to commencement of construction of the Phase 1 marina, existing live-aboard slipholders will be relocated to the existing docks within the Gangplank Marina.
100. The District of Columbia owns the Gangplank Marina and the slipholders hold licenses, which must be renewed annually, to occupy the slips with their boats. By letter dated March 1, 2012, the slipholders were forwarded their license agreements for renewal for the period April 1, 2012 through March 31, 2013. The letter advised the slipholders of the transition plans and notified them that beginning on January 1, 2013, the Applicant would have the right, in its sole discretion, to cancel the license agreement pursuant to Paragraph 30 therein in anticipation of or connection with the commencement of Phase 1 of the project. (Ex. 122.)
101. The Commission is left, then, to balance (i) the clear rights of the Applicant to cancel the slipholders license in order to proceed with development against (ii) the Stage 1 PUD requirement to provide for a live-aboard community during construction with approximately 94 boat slips, with provisions for reasonable continuity of services, utilities, and amenities during construction for the existing live-aboard slipholders.

102. The Applicant presented a detailed transition diagram at the July 12, 2012 hearing, which was also submitted in the drawings to the record. Additionally, the record also reflects a detailed written transition plan dated July 27, 2012, prepared by the Applicant that was submitted to the ANC to help inform the ANC in its own deliberations on the project. (Ex. 171AA). The plan provides for 94 live-aboard slips and for the reasonable continuation of services, utilities, and amenities during construction.
103. This plan was formally accepted by GPSA through an agreement with the Applicant, a copy of which was submitted to the record. (Ex. 235C.) The Commission is satisfied that the transition plan meets the requirements of the Stage 1 PUD. (Ex. 171AA.) The Commission notes that the Applicant represented at the July 31, 2012, hearing night that it had reached an accord with GPSA and there was no testimony to contradict that statement.

**U.S. Army Corps of Engineers**

104. In order to pursue development of the waterside elements of the PUD, the Applicant is required to obtain a permit from the U.S. Army Corps of Engineers ("USACE"), which has jurisdiction over the navigable waters of the United States. USACE provided the permit on July 31, 2012, and a copy was submitted to the record. (Ex. 184.) The permit authorizes the construction of the waterside development, including the Market Pier and Docks, the Transit Pier, the District Pier, the 7<sup>th</sup> Street Pier, the Gangplank Marina, the Capital Yacht Club marina, the bulkhead Pier 3, Pier 4, and the mooring field. The permit allows the development of the areas to the limit of the federal navigational channel, consistent with the dimensions of the improvements shown on the drawings submitted to the PUD record.
105. There was considerable testimony in opposition to the waterside development and, in particular, the deauthorization of the navigable channel and related navigational and anchoring issues. Several individuals testified that the proposed dock and pier extension would impede boat traffic and reduce the opportunities to anchor in the Washington Channel. Many witnesses were concerned that waterside improvements had expanded since the Stage 1 PUD approval. The Commission notes that presently, the ability to anchor in the Washington Channel is under the jurisdiction of the Harbormaster and will remain so in the future.
106. Based on the Applicant's testimony and the drawings in the record, however, the fixed docks and piers have actually been reduced from the approved Stage 1 PUD by approximately 23%. This is a result of the elimination of the commercial pier and the residential building on Pier 4. Additionally, the docks and fixed obstructions in the channel have been pulled back between 40 feet and 75 feet

from the Federal Navigation channel. These changes were in direct response to the USACE comments.

107. The Applicant has also adequately addressed issues surrounding the perceived challenges of the mooring field raised by the cruising community. The Phase 1 plan for the waterside development will include a mooring field for 15 vessels of various length via single point moorings, which are an economical and safe way to accommodate cruising boats that do not desire a fixed slip while visiting. The Commission notes that the proposed mooring field lies outside the boundaries of the PUD and thus is technically not within the Commission's jurisdiction.<sup>3</sup> Nevertheless, the Commission is satisfied that the cruising community's concerns have been addressed.

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The Parcel 2 PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

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<sup>3</sup> The Commission notes that President Obama signed H.R. 2297 on July 9, 2012, that deauthorized the Washington Channel.

5. The Parcel 2 PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The residential uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. This Stage 2 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage approval and thus should be granted. Pursuant to § 2408.6, if the Commission finds the Stage 2 PUD Application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.
7. The Application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
9. Approval of this Parcel 2 PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development 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.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and its oral testimony at the hearing. As explained in this decision, the Commission finds OP's recommendation to grant the applications persuasive.
11. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission has carefully considered the ANC 6D's recommendation for approval and concurs in its recommendation.

12. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for approval of the Stage 2 PUD for the Overall Plan Elements, Parcel 2, Temporary Uses on Parcel 1, the Transit Pier, and adjacent spaces, subject to the guidelines, conditions, and standards set forth below.

For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner.

#### **A. Project Development**

1. The Parcel 2 PUD shall be developed substantially in accordance with the Overall Plan Elements (Volume 0) and Parcel 2 and related plans (Volume I) prepared by Perkins Eastman Architects, dated August 21, 2012, marked as Exhibits 200A and 201A in the record, as updated with a corrected sheet dated August 28, 2012, and marked as Exhibit 218; as modified by the guidelines, conditions, and standards herein. The pierhead line is extended to the limit of the federal navigational channel and is co-terminus with the waterside PUD boundary shown on Sheet 2.1 of Volume 0 of the drawings. (Ex. 200A.)
2. Parcel 2 PUD shall be subdivided into and included in a proposed single lot of record (Proposed Lot 1) containing 489,362 square feet of land area, as shown on Sheet 1.13 of Volume 0 of the drawings dated August 21, 2012, and marked as Exhibit 200A in the record. The Proposed Record Lot 1 may accommodate multiple buildings on a single lot of record.
3. Parcel 2 shall be developed as a single building for zoning purposes, consisting of four segments: an entertainment/cultural venue with approximately 142,514 square feet of gross floor area ("GFA"); residential uses comprised of approximately 489 units with approximately 398,867 square feet of GFA; retail space consisting of approximately 47,797 square feet of GFA; and a co-generation plant with approximately 16,909 square feet of GFA. The building shall have a total of 606,087 square feet of GFA and a maximum height of 130 feet.

4. This Stage 2 PUD shall provide the parking garage at Parcels 2, 3, and 4, as shown on the drawings, which shall provide approximately 1,095 vehicle spaces, as shown on the drawings in Volume 0, Sheets 1.15–1.16. (Ex. 200A.) Approximately 832 bicycle spaces shall be provided in the shared garage. Loading facilities for the Parcel 2 PUD shall be provided as shown on Sheet 3.8 of Volume I of the drawings. (Ex. 201A.) The Parcel 2 Building shall also include the installation or relocation of the Capital Bikeshare Station and the bike racks adjacent to Parcel 2 (along the Wharf and Maine Avenue), as shown on Sheet 2.5 of Volume 0 of the drawings. (Ex. 200A3.) Electric vehicle charging stations and car-sharing spaces shall also be located in the garage as shown on the drawings. (Ex. 235B.) The Applicant shall implement the loading and curbside management plan set forth in Exhibit 179 to the record, and the TDM Monitoring Plan set forth in Exhibit 178 to the record, as amended by Exhibits 246A and 246B. The Applicant shall have the flexibility to modify the monitoring/reporting requirements in coordination with DDOT.
  
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To provide a range in the number of residential units on Parcel 2 of plus or minus 10% from the number depicted on the plans;
  - b. From the roof structure setback requirements, consistent with the roof plans submitted as part of the drawings;
  - c. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
  - d. To vary the location and configuration of the affordable units so long as the proportion of studio, efficiency, and one-bedroom affordable units to all affordable units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market rate units with a mixed-income building. The affordable units shall be of a size equal to the market-rate units, provided that the affordable units may be the smallest size of each market-rate type and have no luxury-scaled unit counterpart;
  - e. To vary the garage layout, the number, location, and arrangement of the parking spaces, provided that the total number of parking spaces is not reduced by more than five percent of the 1,095 spaces shown in the shared parking garage;
  - f. 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, without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt

courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code, the recommendations of the U.S. Commission of Fine Arts, or that are otherwise necessary to obtain a final building permit;

- g. To vary the final design of retail frontages, including locations of doors, design of show windows and size of retail units, to accommodate the needs of specific retail tenants;
  - h. To vary the location and size of signs on the buildings, as long as they conform to the sign guidelines for the PUD;
  - i. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans; and
  - j. To substitute the co-generation power plant, which may include micro-turbines, reciprocating engines, or fuel cells, with alternative power sources. These alternative power sources may be located on Parcel 2 or within each of the individual buildings on the other building parcels. Any mechanical equipment required for the alternative power sources may be located within a building or on the roof of a building, provided the additional roof top equipment meets the height and setback requirements of the Zoning Regulations. The Applicant shall have the flexibility to enclose the additional rooftop equipment with walls of unequal height and in separate enclosures so as to reduce the bulk, mass, and appearance of the roof structures from street level.
6. Prior to the issuance of a building permit for the Parcel 1 building as contemplated under the Stage 1 PUD, the Applicant may implement the temporary uses on Parcel 1, which include an interim parking lot with up to 65 spaces, and periodic farmers' markets, arts and crafts festivals, and similar market or festival uses, with landscaping and hardscaping, as shown on the drawings.
7. The Applicant shall implement the Phase 1 Waterside Relocation Plan, as shown in Volume 0, Sheets 5.1–5.4 (Ex. 200A8).

**B. Public Benefits**

1. During the life of the project, the Parcel 2 PUD shall include a Combined Heating and Power (CHP) Plant, as shown on the drawings in Volume I (Ex. 201A), which will re-use much of the site's on-site stormwater as part of the facility's cooling elements; *provided, however*, that if the utility companies have not supplied the Applicant with the necessary commitments and infrastructure plans to incorporate the CHP Plant into the building prior to submission for the building permit for Parcel 2, then the Applicant shall have the flexibility to proceed with alternative heating and power sources. In the event alternative sources are used,

the Applicant shall have the flexibility to proceed with the alternative drawings in Volume I (Ex. 201A) at Sheets 1.48–1.51, and incorporate any related mechanical equipment on the roof of the Parcel 2A and Parcel 2B buildings. The additional rooftop mechanical equipment shall not generate any additional zoning relief, except that the enclosure walls may be of differing heights to minimize visibility of the roof structures from the street.

2. During the operation of the project, the Applicant shall provide in the Parcel 2A residential building the following level of affordable, workforce, and market-rate units with the approximate square footages shown:

Affordable (30% AMI)	21,546 SF of GFA (29 units)
Affordable (60% AMI)	26,800 SF of GFA (35 units)
Workforce (100% AMI)	12,150 SF of GFA (15 units)
Workforce (120% AMI)	7,776 SF of GFA (10 units)
Market Rate	163,069 SF of GFA (192 units)

3. During the operation of the project, the Applicant shall provide in the Parcel 2B residential building the following level of affordable, workforce, and market-rate units with the approximate square footages shown:

Affordable (30% AMI)	16,317 SF of GFA (22 units)
Affordable (60% AMI)	13,163 SF of GFA (16 units)
Workforce (100% AMI)	11,565 SF of GFA (16 units)
Workforce (120% AMI)	5,942 SF of GFA (8 units)
Market Rate	120,540 SF of GFA (146 units)

4. During the life of the project, the proportion of studio, efficiency, and one-bedroom Affordable Units to all Affordable Units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units within a mixed-income building.
5. During the life of the project, the PUD shall implement the guidelines for signage, storefront, street furniture, and fixtures for the Parcel 2 Building, Transit Pier, and areas of the Wharf and Maine Avenue adjacent to Parcel 2, as shown on Sheets 2.5–2.28 of Volume 0 the drawings. (Ex. 200A.)
6. The Parcel 2 Building shall be designed to satisfy a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or higher, consistent with the score sheets submitted as Sheet 1.52 of the Volume I (Ex. 201A) of the drawings. The Applicant shall put forth its best efforts to design the Parcel 2 Project so that it may satisfy such LEED-NC (new construction) or LEED-CS (core and shell)

Silver rating or higher but the Applicant shall not be required to obtain the certification from the United States Green Building Council.

7. Prior to issuance of the certificates of occupancy for the Parcel 2 Residential Buildings, the Applicant shall obtain the necessary permits for the improvements to Maine Avenue and the Wharf adjacent to Parcel 2, as shown on Sheets 2.1–2.7 and Sheets 2.16–2.19 of Volume I of the drawings (Ex. 201A); and the improvements to Theater Alley between Parcels 1 and 2, the Transit Pier and the Market Pier and Day Docks, as shown on Sheets 2.8–2.15, and Sheet 2.22 of the drawings (Ex. 201A.). Signage, street furniture and fixtures, and lighting for the Parcel 2 PUD shall be installed consistent with the plans. (Ex. 200A.)
8. Prior to issuance of the first certificate of occupancy for the Application, the Applicant shall establish the Project Association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD boundaries. Additionally, the Project Association will be responsible for programming and staging events within the PUD. The Project Association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance (“CAM”) assessment charge to each development component within the PUD. The Applicant shall create, manage and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia and the Applicant and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit.
9. During the life of the project, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD. The Applicant shall comply with the LDA requirement to set aside 20% of the retail space for “unique” and/or “local” businesses, as defined in this Order.
10. During the operation of the project, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (Ex. 209) to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the PUD project. Prior to issuance of a building permit for any construction of Parcel 2, the Applicant shall complete page 11 of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations,

the D.C. Students Construction Trade Foundation, which is an affiliate of the Cardozo Trades Academy, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.

11. At such time as requested by the District, the Applicant shall pay to the District \$750,000 in support of the District's Workforce Intermediary Program.

**C. Miscellaneous**

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of Z.C. Order No. 11-03A(2). Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Order. Construction of the project must commence within three years of the effective date of Z.C. Order No. 11-03A(2).
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination 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.

On November 14, 2012, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Cohen, the Zoning Commission **APPROVED** the Application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Peter G. May,

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and Michael G. Turnbull to approve; Robert E. Miller, not having participated, not voting).

On January 14, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to adopt; Robert E. Miller, not having participated, not voting).

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 February 15, 2013.



ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION



SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING