



DEPARTMENT OF THE NAVY
NAVAL SUPPORT ACTIVITY WASHINGTON
1411 PARSONS AVENUE SE STE. 303
WASHINGTON NAVY YARD DC 20374-5003

11010
Ser N00/243
June 1, 2009

Mrs. Sharon S. Schellin
Chair, District of Columbia Zoning Commission
441 4th Street NW
Suite 210 South
Washington, DC 20001

Dear Mrs. Schellin:

SUBJECT: PUBLIC HEARING FOR CASES 03-12G AND 03-13G, CONCERNING
SQUARE 882, LOCATED ALONG M STREET SE AT 6TH STREET

This letter provides additional information to update the status of our previous opposition, correspondence of April 1, 2009. We request that the record be reopened to accept filing of our comments to the public record in reference to zoning cases of 03-12G and 03-13G.

As indicated in the Holland & Knight letter of June 1, 2009, we have met with the developer, Capper/Carrollsborg Venture, LLC, to discuss ways the developer might assist to mitigate our specific security concerns. After that meeting, the developer drafted a Memorandum of Understanding for our review which addresses most but not all of our concerns. The conditions proffered by the developer in the Holland & Knight letter of 1 June 2009 also address most but not all of our concerns. Accordingly, we do not wish to delay the project while we work with the developer to finalize details and formalize an agreement. To ensure that the Navy's security concerns are addressed without delaying the rezoning process, we request the Zoning Commission include the conditions proffered by the developer in the Holland & Knight letter of June 1, 2009 with one change. Specifically, we request that the proffered condition "a" be amended to read: "The Applicant will enter into an agreement with the Navy and/or Marine Corps to permit the Navy and/or Marine Corps to install and maintain surveillance cameras on the roof(s) of the proposed building(s) at the sole expense of the Navy and/or Marine Corps."

If the Zoning Commission adds these conditions to the zoning approval, then the Navy withdraws opposition to the

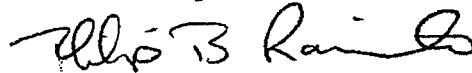
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zoning request. We will continue to work with the developer to execute an agreement in a timely manner.

The Zoning Commission should be aware that the Navy was not properly notified of this zoning request. This caused delay in identifying the Navy's security concerns, and subsequently, our discussions and agreement with the developer. The developer notified General Services Administration (GSA), which does not own or manage property for the Department of Defense (DoD). Applicants requesting zoning actions that may affect DoD property should notify the local installation commander. In the case of the Washington Navy Yard, that would be the Commanding Officer, Naval Support Activity Washington, at the above address.

For this action or any questions or comments, please contact Mrs. Janell Herring at 202-433-0453 or through email janell.herring@navy.mil.

Sincerely,



PHILIP B. RAIMONDO
Commander, U.S. Navy
Acting Commanding Officer

Reference: Navy letter to the Zoning Commission of
April 1, 2009

Enclosure: Holland & Knight letter of June 1, 2009

Copy to:

NAVFAC Washington

PWD Washington

John Imperato, HQ, NDW

Dan McCabe, Urban Atlantic

David Smith, Forest City

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June 1, 2009

VIA HAND DELIVERY

National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington D.C. 20004

Re: Response to Letters Filed by the Department of Navy and the U.S. Marine Corps and Regarding Case Nos. 03-12G/03-13G and 03-12H/03-13H

Dear Members of the Commission:

On behalf of Capper/Carrollsborg Venture, LLC, together with the District of Columbia Housing Authority ("DCHA") (collectively the "Applicant"), we are writing to inform you of the Applicant's progress in working with the Department of Navy (the "Navy") and the U.S. Marine Corps (the "Marines") since the Navy and the Marines filed their letters, dated April 1, 2009 and April 3, 2009 respectively, indicating they had concerns regarding the proposed development.

Representatives of the Applicant have met with representatives of both the Navy and the Marines on numerous occasions in the past two months to address the concerns raised in their respective letters. Based upon the concerns raised by the Navy and the Marines during these meetings, the Applicant will request that the Zoning Commission include the following items

either by reference to this letter, or by specifically listing the items below, as conditions of any order approving this application:

1. The Applicant shall incorporate the following measures into the development and operation of the proposed office and residential buildings in Square 882:

- a. At the Navy's sole expense, the Applicant shall permit the Navy to install surveillance cameras on the roof of the office building and to connect such cameras to the Navy's surveillance system. At the Marines sole expense, the Applicant shall permit the Marines to install surveillance cameras on the roof of the residential building and to connect such cameras to the Marines surveillance system. The cameras installed by the Navy shall transmit wirelessly and be monitored by Navy personnel, and the cameras installed by the Marines shall transmit wirelessly and be monitored by Marines' personnel. The location and design of the cameras shall be coordinated with the Applicant and shall not delay preparation of design documents and/or the receipt of permits for the building. Maintenance of the cameras shall be at the sole expense of the Navy and Marines and access for maintenance must be coordinated and approved through the building's property manager, which access will not be unreasonably withheld or delayed.

- b. During construction of the office building, the Applicant shall supply the Navy the contact information for the building's construction supervisors to coordinate and facilitate installation of the Navy's equipment.

- c. During construction of the residential building, the Applicant shall supply the Marines the contact information for the building's construction supervisors to coordinate and facilitate installation of the Marines equipment.

- d. Upon completion of construction of the office building, the Applicant shall provide to the Navy and the Marines contact information for the office building's property manager to facilitate the coordination of efforts to address any security concerns that may arise once the office building is constructed. The Applicant shall also provide written notice to the Navy of the proposed rooftop maintenance schedule once determined.

- e. Upon completion of construction of the residential building, the Applicant shall provide to the Marines the contact information for the building' property manager to facilitate the coordination of efforts to address any security concerns that may arise once the residential building is constructed. The Applicant shall also provide written notice to the Marines of the building's exterior maintenance schedule once determined.

- f. As the office building becomes occupied, the Applicant shall provide to the Navy a list of the tenant organizations (not individuals) from the fourth through eighth floors of the building. The Applicant shall provide an updated list whenever a tenant moves into or out of the office building. This provision shall not be deemed to grant the Navy any right to approve or disapprove of any tenants in the office building.

- g. The Applicant shall provide the Navy and Marines 48-hour notice prior to any large events on the roof of the office building. The Applicant shall limit access to the roof of the office building during specific ceremonial events held at the Washington Navy Yard. The Navy shall provide to the office building's property manager notification of the scheduling of events in a timely manner and, at a minimum, 7 days prior to such event to the building's property manager.

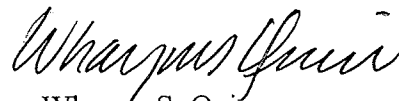
- h. The Applicant and the Marines shall provide notice of, and coordinate the scheduling of, any large events or assemblies in the common courtyard areas of the residential building or on the Marines' grounds.

- i. All notifications listed herein from the Applicant to the Navy and/or Marines are for informational purposes only and do not in any way require any type of approval from the Navy and/or Marines of any item in any notification.

The Applicant has discussed these proposed conditions with the Navy and Marines, and understand that the conditions adequately address their concerns. Moreover, including these items as conditions in the PUD order make the provisions binding upon the Applicant.

Thank you for your consideration of this matter. The Applicant looks forward to the NCPC's and the Zoning Commission's favorable consideration of this application.

Sincerely,



Wayne S. Quin



Kyrus L. Freeman

cc: A.H. Smith, United States Marine Corps
John A. Sears III, Department of the Navy
D.C. Zoning Commission
Steve Cochran, D.C. Office of Planning

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June 4, 2009

VIA HAND DELIVERY

National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington D.C. 20004

Re: Response to Letters Filed by the Department of Navy and the U.S. Marine Corps and Regarding Case Nos. 03-12G/03-13G and 03-12H/03-13H

Dear Members of the Commission:

On behalf of Capper/Carrollsborg Venture, LLC, together with the District of Columbia Housing Authority ("DCHA") (collectively the "Applicant"), we are writing in response to the letter filed by the Department of Navy (the "Navy"), dated June 1, 2009, and the letter filed by the U.S. Marine Corps (the "Marines"), dated June 3, 2009.

The Applicant hereby agrees to the modification proposed by the Navy. Thus, the Applicant will request that the Zoning Commission revise condition "a" identified in the Applicant's June 1st letter to read as follows:

- a. The Applicant will enter into an agreement with the Navy and/or Marine Corps to permit the Navy and/or Marine Corps to install and maintain surveillance cameras on the roof(s) of the proposed building(s) at the sole expense of Navy and/or Marine Corps.

As indicated in the Navy's letter, since the Applicant has agreed to modify the language of proposed condition "a," the Navy will withdraw its opposition if the Zoning Commission adds these conditions to the zoning approval.

With respect to the Marines' letter, the Applicant requests that NCPC recommend favorably on the modifications requested. As noted in the Applicant's June 1st letter, the Applicant has met with the Marines a number of times in the past two months to address the concerns raised in the Marines' letter. Based on these discussions, the Applicant drafted and submitted to the Marines a proposed Memorandum of Understanding that included the conditions listed in the Applicant's June 1st letter to address their stated security concerns. Prior to the submission of the Marines' letter today, the Applicant understood that the parties had reached agreement and that the proposed conditions addressed the Marines' security concerns. In fact, nothing in the Marines' June 3rd letter indicates why the Applicant's proposed conditions are unacceptable, or what remaining security concerns the Marines have.

The Marines, beyond the scope of the proposed modifications which are the subject of this pending application, have requested a delay to accommodate their entirely new planning initiative. However, the Applicant's property is owned by DCHA and is subject to a zoning approval granted pursuant to Z.C. Order No. 03-12/03-13, with NCPC's favorable recommendation, which was issued and became final and effective on October 8, 2004, and authorizes the development the Applicant's site. Such a delay will result in significant damages to the Applicant and this major Hope VI redevelopment project. As noted in the letter prepared by DCHA and attached hereto as Exhibit A, any further delay will:

1. Delay implementation of the PILOT financing which funds the infrastructure for the entire development and will effectively bring the project to a halt because no further infrastructure for any component can be started. The next 3 squares, which includes the 2nd phase of the townhomes (163 units), have 2nd stage approval and have been designed. Commencement of construction depends on prompt installation of infrastructure.
2. The PILOT financing also funds the vertical construction of the Community Center, the permit date and start date for which are conditions of the PUD order. This will delay the design and construction of the Community Center which was a critical issue in the approval.
3. The marketing of the office building will be delayed until the 2nd stage PUD is approved because potential tenants need definitive parameters regarding building size and design before committing to lease obligations.
4. Capper is the largest Hope VI project in the nation that incorporates 1:1 replacement public housing units. Of the 707 original public housing units, we have completed 315 units. An additional 36 units are under construction in the remainder of the 1st phase of the townhouse component. The remaining 356 public housing units would be delayed while awaiting a new planning study.

Finally, with respect to the notice issue, the notice required pursuant to the Zoning Regulations was properly provided. Section 3015.3(a) of the Zoning Regulations requires the Office of Zoning to mail a copy of the hearing notice at least 40 days prior to the hearing to owners of property within 200 feet of the property included in the application. As shown on the

National Capital Planning Commission

June 4, 2009

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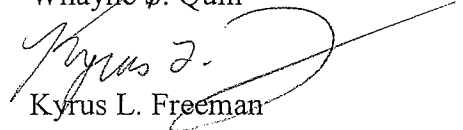
map attached hereto as Exhibit B, the 200 foot radius included both the Washington Navy Yard and the Marines' site. A copy of the D.C. Office of Tax & Revenue records for Squares 801, 881 and 881W and a roster of property owners indicating which property owners are included within such 200 foot radius, and, thus to whom notice was sent is also attached at Exhibit B. In addition, the Office of Zoning published notice of the public hearing in the D.C. Register on January 23, 2008 in accordance with Section 3015.2. The Applicant also posted notice of the hearing on Square 882, including on the L Street frontage, on February 2, 2009 in accordance with Section 3015.2. Thus, proper notice as required pursuant to the Zoning Regulations was provided.

Thank you for your consideration of this matter. The Applicant looks forward to the NCPC's and the Zoning Commission's favorable consideration of this application.

Sincerely,



Wayne S. Quin



Kyrus L. Freeman

cc: A.H. Smith, United States Marine Corps
John A. Sears III, Department of the Navy
D.C. Zoning Commission
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