

RICHARD B. NETTLER
202-736-2720/2721

June 29, 2006

VIA HAND DELIVERY

Andrew Hood, Vice Chairman
District of Columbia Zoning Commission
441 N. Fourth Street, Second Floor
Washington D.C. 20001

Re: Case No. 06-22, Application of the District of Columbia Sports and Entertainment Commission for Review of a Ballpark for Major League Sports and Entertainment and Related Uses, Squares 702 through 706 and Reservation 247,
Our File No.: 092345.0001

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D.C. OFFICE OF ZONING
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Dear Vice Chairman Hood:

Enclosed for filing are an original and twenty (20) copies of the Applicant's Second Supplemental Statement and Closing Argument in the above-referenced matter.

This Supplemental Statement responds to the Zoning Commission's request, made at the June 26, 2006 public hearing in this matter, for certain information, including:

1. Information on the design and function of the South Capitol Street pedestrian ramp;
2. Detailed plans of the design of the Northern Buildings;
3. Information on N Street Retail and a response to the desire to connect such retail with retail on First Street;
4. Additional views of the Capitol from within the Ballpark, considering buildings under construction, proposed buildings for sites north of the Ballpark Site and the buildings proposed for the North Parcels;
5. Additional information and plans on the concept for the South Plaza;

6. Responses to NCPC, neighborhood, and Zoning Commissioner questions related to environmental measures on site, retail on South Capitol Street, Ballpark security, and neighborhood safety; and

7. A copy of the MOU between the D.C. Sports and Entertainment Commission and the D.C. Department of Transportation.

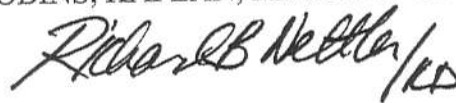
We have also included, as an exhibit to the Second Supplemental Statement, a written version of the slides presented by the project architects at the June 26, 2006 public hearing.

Finally, we have enclosed the written version of the testimony given at the public hearing by Mark H. Tuohey, III, Chairman of the Board, and William N. Hall, Chairman of the Baseball Committee of the D.C. Sports and Entertainment Commission.

Should you require any further information, please let me know.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.



Richard B. Nettler

Encl.

Cc: Andy Litsky, Advisory Neighborhood Commission 6D
Ellen McCarthy, Director, Office of Planning
James Joyce, General Counsel, Capitol Police Board
Claude Bailey, General Counsel, DCSEC

**BEFORE THE ZONING COMMISSION OF
THE DISTRICT OF COLUMBIA**

**CASE NO. 06-22 (DISTRICT OF COLUMBIA SPORTS AND ENTERTAINMENT
COMMISSION – CONSTRUCTION OF A MAJOR LEAGUE BASEBALL BALLPARK)**

**SECOND SUPPLEMENTAL STATEMENT AND CLOSING ARGUMENT OF THE
APPLICANT**

June 30, 2006

This Second Supplemental Statement and closing argument is submitted by the Applicant, the District of Columbia Sports and Entertainment Commission, on behalf of the District of Columbia (“DCSEC” or “Applicant”), in support of its application, filed with the District of Columbia Zoning Commission (“Commission”) on May 3, 2006, pursuant to 11 DCMR § 1606.1 *et seq.*, as amended by the Supplemental Statement submitted by the Applicant on June 23, 2006, for approval of the construction of a ballpark for major league sports and entertainment and associated uses (the “Ballpark”) in Squares 702 through 706 and Reservation 247 (the “Ballpark Site”), including approval for a mixed-use retail/residential/hotel development connected to the Ballpark and located on the northern portion of the Ballpark Site.¹

Pursuant to 11 DCMR § 3011.1, the DCSEC included a written report of the Office of Planning certifying that the application is compliant with the standards of Section 1606 of the Zoning Regulations, thereby entitling the applicant to the hearing that was held on June 26, 2006. The purpose of this Second Supplemental Statement and closing argument is to provide specific responses to requests for additional material and issues raised by members of the Commission

¹ Attached hereto as Exhibit A are copies of the slides from the architects’ presentation made at the Zoning Commission hearing.

and certain public witnesses at the hearing, and to further identify, or clarify, the Applicant's requested relief from the Commission, as stated at the hearing before the Zoning Commission.

As the Mayor said at the hearing on June 26th, "we are, where we are." That is, the DCSEC recognizes its obligation to insure that a new ball park for the Washing Nationals is consistent with the zoning overlay adopted by the Zoning Commission last Fall and its obligation to support the goals developed in the Anacostia Waterfront Initiative, but the DCSEC also recognizes that it, and the District of Columbia government, have made commitments to Major League Baseball and the Council, to deliver a Ballpark on time and within budget. Those reasonable goals and constraints inform both the proposal that has been submitted to the Zoning Commission and the relief sought in the subject application.

1. **RELIEF REQUESTED IN ORIGINAL APPLICATION AND SUPPLEMENTAL STATEMENT**

In its initial application, the DCSEC requested approval for three different options for construction of the Ballpark, identified as a Base Plan, Option One and Option Two. The Base Plan, Option One and Option Two differ primarily with regard to the location and amount of retail, service, arts and entertainment uses ("preferred uses") fronting along the perimeter of the Ballpark. The DCSEC requested relief for the Base Plan from the perimeter retail requirements of 11 DCMR §1606.14. The DCSEC also requested relief from the requirements of 11 DCMR §1606.7 in order to construct a portion of the Ballpark-related parking in above-ground parking structures. Furthermore, the DCSEC requested relief, pursuant to 11 DCMR §1606.22, (i) from the strict applicability of the setback requirements of 11 DCMR §1606.16 in order to accommodate the pedestrian ramp to be located at the northern end of the Ballpark along South Capitol Street; (ii) for Option One and Option Two, from the strict applicability of the height requirement set forth at 11 DCMR § 1606.14(d) for a portion of the space within the Ballpark

perimeter allocated for preferred uses; and (iii) for the Base Plan and Option One, from the strict applicability of the average depth requirement set forth at 11 DCMR § 1606.14(e) for the space within the Ballpark perimeter allocated for preferred uses. The DCSEC noted that, with regard to the Base Plan Option One and Option Two, the DCSEC intended to construct the above-grade parking garages after completion of the Ballpark, and that there would be, as an interim condition, a surface parking lot designed to accommodate 254 vehicles on the northern portion of the Ballpark Site.

The DCSEC also requested that the Zoning Commission approve the building envelope of the Second Phase Plan, which the DCSEC anticipated would, in the event that a entity of the District or a developer selected by the District as provided for in Section 4 of the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Emergency Act of 2006 (Act 16-277, 53 DCR 1341) was chosen to conduct further development on the Ballpark Site, likely include Ballpark-related development adjacent to and north of the N Place plaza in lieu of the above-grade parking structures which would take advantage of the full 7.0 FAR zoning envelope, as provided for in 11 DCMR §§ 1606.4 and 1601.1, and which would likely provide that the balance of the parking spaces required under the Lease with Baseball Expos, L.P. be below-grade, consistent with the requirements of 11 DCMR § 1606.7. The Second Phase Plan also anticipated additional Ballpark-related development within the south plaza area of the Ballpark. The DCSEC noted that the developer or the selected District entity would seek approval from the Zoning Commission once decisions were made as to the development of the areas north and south of the Ballpark within the Ballpark Site.

In its June 23rd Supplemental Statement, the DCSEC requested that the Commission approve a preferred alternative development in lieu of the above-grade parking garages on the

northern portion of the Ballpark Site, as provided for in the May 3rd Application, that would provide for residential, hotel and retail development wrapped around reconfigured above-grade parking for Ballpark-related use that would maximize development potential on that portion of the Ballpark Site consistent with the Zoning Commission's vision for the Capitol Gateway Overlay District, contribute to the redevelopment of this area of Washington as a lively and thriving location for residents and visitors alike and ameliorate concerns raised by members of the Commission and others with regard to the utilization of and the visual affect of utilizing the northern portion of the Ballpark Site solely for above-grade parking garages. The development would be connected to the Ballpark building through conditioned space above the ground level of both buildings, making all development on the site one building as defined in the Zoning Regulations and allowing for the new development to utilize the same measuring point on South Capitol Street as the Ballpark building.

However, the DCSEC noted that this preferred alternative was dependent on a number of critical reviews, approvals and events, prior to August 1, 2006, that will not occur until after consideration of this application by the Commission, including, *inter alia*, (1) certification by the Chief Financial Officer of the District of Columbia in order to ensure that the District government and holders of the bonds issued to fund the Ballpark do not incur additional financial exposure by this preferred development; (2) approval by the Council of the District of Columbia of the disposition of the real property on which the additional development would be sited; and (3) the obtaining of adequate financing commitments and completion guarantees by the developer. The DCSEC stated that, while it is clearly the DCSEC's preference to proceed with the development on the northern portion of the Ballpark Site in lieu of the above-ground parking garages included as part of the originally filed application, because of the uncertainty at this time

as to whether such development will proceed on the northern portion of the Ballpark Site, and for the practical difficulties originally set forth in the application and discussed at the Public Hearing, the DCSEC requested that the Commission also approve the above-grade parking structures for the northern portion of the Ballpark Site as shown on the filed application in the event that circumstances dictate that the proposed development will not be able to deliver the Ballpark-related parking requirements within the timeframe required in the Lease with Baseball Expos, L.P. The Mayor echoed this request and emphasized the importance of dual approvals at the public hearing on June 26, 2006, stating: "We are where we are in terms of the budget of this project and the timetable. . . . I believe there's a very high probability [that underground parking will be built as part of the modified plan], but we have to have that backup plan." In order to deliver the Ballpark-related parking requirements within the timeframe required, it is critical that the Zoning Commission approve both the above-grade parking structures as shown in Option One and the preferred uses as shown in the Supplement filed on June 23, 2006 and this Second Supplemental Statement.

2. REQUEST FOR RELIEF

The DCSEC respectfully requests that the Commission approve Option One, together with the retail option in Option Two of the application as originally set forth in the application, together with the modified portion of the application which provides for development to the north of the Stadium.² In addition, for the reasons, clearly set forth by the Mayor and the representatives of the DCSEC at the hearing on this application, the DCSEC urgently requests that the Zoning Commission also approve the two-above ground parking structures proposed as

² Option One and Option Two differ primarily with regard to the location and amount of retail, service, arts and entertainment uses ("preferred uses") fronting along the perimeter of the Ballpark.

part of the DCSEC's original application in the event that the conditions outlined below cannot be met with regard to the modified application by July 24, 2006.

Whether considered as a waiver or a variance, the DCSEC respectfully requests relief from the requirements of 11 DCMR §1606.7 in order to construct a portion of the Ballpark-related parking in above-ground parking structures, as both the preferred option and the parking as provided for in the originally filed application provide that all or a portion of the parking on the Ballpark Site will be above-grade.³ While the Overlay does not require that any minimum amount of parking be provided on site for the Stadium, the agreements entered into with Major League Baseball ("MLB") require such parking and require that the parking be located in the areas delineated by the plans submitted with this application. As demonstrated at the hearing, it is impossible to provide such parking, on time as required by the District of Columbia's agreement with MLB, and in budget, as required by the Council, unless the parking is provided in either the modified proposal submitted to the Zoning Commission on June 23, 2006 or in the two above-ground garages that are depicted in the original application.⁴

The DCSEC respectfully requests that the Commission approve the preferred alternative development that would provide for residential, hotel and retail development wrapped around

³ With regard to the requirements for a variance, the property is clearly unique, the practical difficulties in complying with the zoning regulations have been more than adequately testified to and demonstrated at the hearing on the application, and the relief requested will not have an adverse effect on the zone plan or map.

⁴ The below-grade parking depicted in the modified application responds to the DCSEC's obligations as well but does not require relief from any specific zoning regulation. The below-grade parking also is responsive to the Anacostia Waterfront Corporation's ("AWC") desire to use that portion of the site for above-grade development which will be reviewed by the Zoning Commission when a development option is prepared by the AWC. The approximately 300 spaces to be constructed below-grade will be covered with a system of tensile fabric structures supported on a structural framework partially open to the south plaza of the Ballpark at the service level of the Ballpark (See discussion, *infra*, at Section D and Exhibit F). This condition will be an interim condition, since the District fully intends to develop the site as part of a second phase of development on the Ballpark Site. The DCSEC respectfully requests that the Commission allow for this interim condition to be constructed on the south side of the Ballpark.

reconfigured above-grade parking for Ballpark-related use that would maximize development potential on that portion of the Ballpark Site consistent with the Zoning Commission's vision for the Capitol Gateway Overlay District, contribute to the redevelopment of this area of Washington as a lively and thriving location for residents and visitors alike and ameliorate concerns raised by members of the Commission and others with regard to the utilization of and the visual affect of utilizing the northern portion of the Ballpark Site solely for above-grade parking garages. However, because the preferred option is dependent on a number of successful reviews, approvals and events that will not occur after consideration of this Application by the Commission, including: (1) certification by the Chief Financial Officer of the District of Columbia in order to ensure that the District government and holders of the bonds issued to fund the Ballpark do not incur additional financial exposure by this preferred development; (2) approval by the Council of the District of Columbia of the disposition of the real property on which the additional development would be sited; and (3) the obtaining of adequate financing commitments and completion guarantees by the developer,, the DCSEC respectfully requests that the Commission also approve the above-grade parking structures for the northern portion of the Ballpark Site as shown on the filed Application in the event that circumstances dictate that the proposed development will not be able to deliver the Ballpark-related parking requirements within the timeframe required in the Lease with Baseball Expos, L.P.

Having identified funds that will allow the DCSEC to reconfigure the service level of the Ballpark and provide additional preferred uses along the Ballpark's perimeter along First Street, S.E., the DCSEC is no longer requesting any relief from the perimeter preferred uses requirements of the zoning regulations.⁵ Because a portion of the preferred use space is less than

⁵ Option One incorporates an additional 17,000 square feet of preferred use space around the First Street portion of the Ballpark perimeter, and allows the DCSEC to meet the requirement in 11 DCMR § 1606.15 that at

14 feet in height, and because the average depth of the preferred uses is slightly below 50 feet, the DCSEC respectfully requests that the Commission grant relief, pursuant to 11 DCMR §1606.22, from the strict applicability of the height requirement set forth at 11 DCMR § 1606.14(d) for a portion of the space within the Ballpark perimeter allocated for preferred uses; and from the strict applicability of the average depth requirement set forth at 11 DCMR § 1606.14(e) for the space within the Ballpark perimeter allocated for preferred uses. As explained by the DCSEC's experts, it is impossible to provide the required ballpark program for the Washington Nationals and at the same time adhere strictly to the height and depth requirements for the retail at this time. This need for relief may be ameliorated by the use of the additional retail space provided for in Option Two but the funds for that retail have not yet been identified and, thus, at this time, are beyond the reach of the DCSEC as a result of the limitations placed on spending by the Council.⁶ Lastly, the DCSEC respectfully requests that the Commission grant relief, pursuant to 11 DCMR §1606.22, from the strict applicability of the setback requirements of 11 DCMR §1606.16 in order to accommodate the pedestrian ramp to be located at the northern end of the Ballpark along South Capitol Street.

least twenty percent (20%) of the Ballpark's exterior perimeter be devoted to preferred uses. Additionally, Option One provides for internal loading and unloading facilities at the service level along First Street rather than the series of loading docks located behind the overhead doors in the Base Plan, thereby greatly reducing the vehicle/pedestrian conflicts present in the Base Plan and significantly reducing the number of curb cuts along First Street.

⁶ Option One and the retail component of Option Two differ primarily with regard to the location and amount of retail, service, arts and entertainment uses ("preferred uses") fronting along the perimeter of the Ballpark. Option Two would add an additional 34,000 square feet of preferred use space around the First Street portion of the Ballpark perimeter, and is the preferred option for the Anacostia Waterfront Corporation. By seeking approval for Option One and Option Two rather than the Base Plan, the DCSEC is able to greatly enhance the vitality of the streetscape along First Street and more closely provide the activity envisioned by the Commission in its adoption of the Zoning Regulations for the Ballpark Site.

3. RESPONSES TO ADDITIONAL INFORMATIONAL REQUESTS

At the public hearing on the application on June 26, 2006, the Commission members requested that the DCSEC provide additional information with regard to the application, including providing more detailed renderings for the development on the northern portion of the Ballpark Site. The additional information is provided below and in the attachments to this Second Supplemental Statement.

A. SOUTH CAPITOL STREET PEDESTRIAN RAMPS

The DCSEC requested, pursuant to 11 DCMR § 1606.22, relief from the setback requirements of 11 DCMR § 1606.16 in order to accommodate the pedestrian ramp to be located at the northern end of the Ballpark along South Capitol Street. As stated in the application, the two Ballpark pedestrian ramps are arranged in order to provide dramatic overviews of the city and the playing field and are strategically placed at key points in the Ballpark façade. The ramp at South Capitol cantilevers away from the exterior wall and out into the street setback giving Ballpark patrons dramatic outward views of both the Capitol and monuments beyond, while the Potomac Avenue ramp affords views of the Anacostia waterfront. The ramps also create striking views of fan circulation within the Ballpark for street level pedestrians traveling near the Ballpark on game days. The South Capitol Street Ramp does not project past the property line for the Ballpark nor is it the result of any architectural lapse with regard to the ramps planned for the Ballpark.

At the request of the Commission, the architect has provided a clarification of additional design features of the South Capitol Street Ramp, which is attached as Exhibit G. The South Capitol Street ramp will feature sculpted steel cantilever landings with smooth metal soffits. It is envisioned as a glowing light pylon as shown in the attached supplemental sketches. A second

alternative illustrating additional design details is also included as an option for the Commission's consideration. No where in America can a walk to the upper levels of a baseball park be so educational, so historical, as the walk on the South Capitol ramp in the National's new Ballpark. The exploration of ideas has uncovered an experience that is truly Washington DC. Walk up the ramp toward the west, and the history of our great nation unfolds before one's eyes. Continue this walk to the east and the graceful, historic game of our Nation's pastime can be observed. A fitting response to a design which seeks transparency, the history of our nation unfolding within one's very vision, all the while the expectations of victory for the local team beats in the hearts of the fans. No where in America can this experience be found, only here in a Ballpark for the Washington Nationals!

B. NORTH DEVELOPMENT ARTICULATION; RELATIONSHIP OF NORTH DEVELOPMENT TO BALLPARK; VIEW CORRIDORS; CONNECTION OF PREFERRED USE SPACE ON N STREET TO PREFERRED USE SPACE ON FIRST STREET

Please refer to Exhibit B & Exhibit H (Sheets 33 through 36 of 36) to this Second Supplemental Statement. With regard to the views from the seating bowl, views of the Capitol from almost everywhere within the Ballpark are blocked already from development under construction north of the Ballpark Site and proposed development north of the Site by private property owners. And, additional matter of right development permitted on other squares north of the Ballpark Site will have the same impacts. However, some minor views of the Capitol will remain from the last row of the Upper Concourse and from a few others rows on the Upper Concourse. The supplement provided contains revised and more detailed elevations of the proposed mixed use portion of the building at the north end of the project. This includes greater definition of the façade of the residential building. In addition to perspectives and the N street

elevation previously provided, the supplement includes elevations for the remaining sides of the building and additional perspective views. Three additional views from the Upper Concourse have been provided; 1) views from the last row of the upper concourse with the proposed development on the North Area included, 2) views from the upper concourse from the last row with no development shown between N Street and M Street, 3) views from the upper bowl from the last row with proposed development shown between N Street and M Street.

The S. Capitol Street elevation has been revised to include a retail façade along its entire length and the parking structure envelope above has been revised to eliminate openings for ventilation. This elevation will be completely clad in glass and aluminum to match the residential envelope above. The façade is stepped back at approximately 78 feet above average grade to reflect the datum line created by the remainder of the Ballpark façade; visually tying the two portions of the structure together. The building is setback again at 110 feet as prescribed by the zoning overlay; further reducing the scale of the façade.

The elevation that faces the interior of the seating bowl is dominated by the glass expression of the residential component of the building (Sheet 30 of 36). The residential building is designed with six wings of residential development above a base containing the required parking. The short ends of the six wings face the seating bowl and are clad with a glass and aluminum curtain wall. The massing of the 6 wings significantly reduces the scale of the building as it is viewed from the Ballpark. The base of the building is approximately 53 feet above average grade, and is screened using metal panels which allow natural ventilation but block views of the parked cars within. Thus, in contrast to the representations made at the hearing before the Zoning Commission, neither the above-grade parking, nor any of the lights of the motor vehicles, is at all visible from within the Ballpark or from any other vantage point.

At the concourse level of the garage, Ballpark functions front onto the concourse from both the north and south sides. In addition, the seating bowl will be physically connected to the Ballpark parking functions at the club level (one level above grade). At the eastern end of the club level concourse, the concourse is extended over and connects to the parking level. The connection incorporates Ballpark functions such as retail and provides an additional entrance into the club level directly from the Ballpark parking. The view from within the seating bowl will be of the wings of the residential buildings seated on the metal screened parking base, the northern edge of the bowl and concourses and the Ballpark's restaurant.

The elevation of the buildings fronting the entry plaza includes a retail base at the pedestrian level, naturally ventilated screened parking and residential above. Screened parking begins 65' from the corner at N Street and comprises a small portion of the façade ending at level 5. Above this base is a glass façade of the eight stories of residential.

The N Street elevation presents the full height of the building as a glassy façade above the retail base. Residential and retail uses completely covers the parking garages except at the garage entry and loading dock which will be fitted with glass doors. The retail base is proportioned as two stories to ground the building and to give it presence on the street. The façade designs will be designed by the individual tenants; adding interests and vitality to the street experience. At the western end of the building a combined entrance to the parking and loading will allow for their use during events without disrupting pedestrians. The residential façade above will be heavily articulated with projecting and recessed bays that express the six wings of the building in plan. The massing of the building breaks down the scale of the building along N Street making it comfortable yet exciting to the pedestrian.

Finally, the First Street façade provides an articulated base with the predominantly residential expression above. The entrance and lobby of the hotel wraps the corner of the building, pulling the activity around the corner and tying the retail experience of N Street onto First Street (Sheet 10 of 36). The hotels high glassy façade will allow the light and activity within to activate both First and N streets. The lobby is complemented by additional retail facing directly onto First Street. Also located along First Street is the entrance into the required loading for the retail and eastern tower as well as parking. These required elements are combined to minimize their impact and will be fitted with doors to enclose them.

As shown on the corrected Project Profile attached as Exhibit I, the proposed North Development complies with all of the requirements of the Capitol Gateway Overlay with the exception of retail height, which varies between 11' and 23' clear ceiling height, and depth, due to the provision of parking within the structures and the need to comply with the required setbacks from the street. Therefore, the DCSEC respectfully requests that the Zoning Commission grant relief from the 14' height requirement of Section 1606.14(d) and the 50' average depth requirement of Section 1606.14(e).

C. MEMORANDUM OF AGREEMENT WITH DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

Please refer to Exhibit C to this Second Supplemental Statement, which may be filed under separate cover for the executed agreement between the DCSEC and the District of Columbia Department of Transportation (“DDOT”), which is designed to allow the DCSEC and DDOT to work collaboratively on the creation of a final Transportation Operations and Parking Plan prior to the opening of the Ballpark for the 2008 season.

D. SOUTH PLAZA

As set forth in the application, the South Plaza, with its broad expanse of walkways and inviting landscaping and hardscaping, is intended to provide a safe place for Ballpark patrons to congregate before, during and after games. A conceptual sketch is attached as Exhibit F. It will contain a historical timeline element that will include milestone dates for Baseball in Washington along with other noteworthy events in the history of the city. The DCSEC has committed to working with a historic preservation specialist to select the appropriate milestones. The timeline, leading from the oval to the main southern entrance to the Ballpark, is framed on the western edge by the administration building and directs views directly to the stadium. The eastern edge of the timeline, by contrast, is cantilevered over the interim parking areas below. The below-grade parking area adjacent to the timeline will be bordered with planters that contain wintergreen barberry as a natural barrier. One or more tensile fabric structures may cover the parking area below grade, which would allow natural light and ventilation into the space, and provide the potential for the incorporation of architectural lighting and/or graphics. A green roof with sedum plant material may be provided over the below-grade parking area along the Potomac Avenue edge of the South Plaza. The roof would slope towards the Ballpark and its edge would be protected by a seat wall height barrier, planted with medium shrubs to discourage fans from climbing. The concept may require further refinement and may eventually incorporate a green roof component in lieu of the tensile fabric structure(s). Again, a conceptual sketch and plan view are attached as Exhibit F. Plazas and steps along the stadium edge will physically connect the South Capitol streetscape to the streetscape at Potomac Avenue. It is intended that the Plaza will be utilized on game days by Ballpark Patrons and, depending on future development around the Ballpark Site as envisioned by the Office of Planning and the Anacostia

Waterfront Corporation, by residents and visitors patronizing the businesses that will be located within the Ballpark District and strolling along the revitalized Anacostia Riverfront on the newly created pedestrian walkways lining the river.

E. RETAIL ON SOUTH CAPITOL STREET

Retail will be provided at the northern end of the site in the base of the residential building. In addition, a combination of Ballpark entrances, transparent material and storefront will activate the S. Capitol Street façade. The attached diagram was presented to the NCPC with their review of the proposal and is still valid with this supplemental submission, and was a part of their review and endorsement of the project. In her testimony before the Zoning Commission, a staff person of the National Capitol Planning Commission (“NCPC”) requested that retail activities be provided along the South Capitol Street perimeter of the Ballpark and the companion development to the north of the Ballpark. This is consistent with NCPC’s position as set forth its Legacy Plan for South Capitol Street, as most recently articulated in its report dated August 10, 2005 that was filed with the Commission in connection with its review of the proposed rulemaking in Case No. 05-08, which provided for construction of the Ballpark on the Ballpark Site. The provision of retail on South Capitol Street to articulate the South Capitol façade of the Ballpark was a recommendation of the NCPC to the Commission, which in its report stated that the text amendment as published, which did not expressly provide for retail on South Capitol Street, did not adversely affect the federal interest. The Zoning Commission weighed NCPC’s recommendation in its deliberations on the text amendment and decided not to specifically require retail on South Capitol Street, but rather required that 20% of the Ballpark Perimeter be devoted to preferred uses, a requirement which the DCSEC now greatly exceeds with its focus on Zoning Commission approval for Options One and Two regarding the provision

of retail on First Street and on approval for the mixed-use development north of the Ballpark on the Ballpark Site, which provides further retail opportunities on First Street and additional retail opportunities on N Street and the closed portion of Half Street. This is consistent with the vision of the D.C. Office of Planning and the Anacostia Waterfront Corporation as embodied in the Anacostia Waterfront Initiative (“AWI”), which considers First Street and other interior streets within the Ballpark District as the primary receptors of retail development, drawing visitors and residents alike from M Street and the Navy Yard Metro Station down to the Anacostia Waterfront. The vision for South Capitol Street in the AWI is that it provide a link “physically and aesthetically to Washington's Monumental Core by creating a grand and ceremonial street that will also provide the appropriate setting for future memorials, museums, and other public buildings.” The design of the Ballpark and its articulated façade on South Capitol Street is consistent with and respectful of this vision. Moreover, the DCSEC, as well as the Office of Planning and the Anacostia Waterfront Corporation, do not view South Capitol Street as a viable retail street, nor could retail be integrated into the Ballpark without severely impairing internal operations of the Ballpark and also satisfy the 15-foot setback requirement along South Capitol Street . Therefore, the retail on the Ballpark Site is located away from the grand ceremonial boulevard and toward the newly created neighborhood of which the Ballpark represents an important focus.

F. ENVIRONMENTAL CONCERNS OF ANACOSTIA RIVER KEEPER AND ADVISORY NEIGHBORHOOD COMMISSION

The DCSEC fully intends to implement best practice environmental measures at the Ballpark and in the development on the northern part of the Ballpark Site to the extent financially feasible and practical. As stated in the Application, the Ballpark will promote the use of best practice environmental design, including minimizing potential impacts on the Anacostia River

through storm water management and the minimization of the environmental impact of the facility including energy efficiency and water conservation. The Ballpark will implement the Best Management Practices approved by the District's Department of Health. Additionally, DCSEC envisions that the owner of the Washington Nationals, as tenant of the Ballpark, will promote the use of recycling and efficiently recycle all recyclables in accordance with the requirements for commercial establishments in the District. It is the intent of the DCSEC if additional funding becomes available, that the Ballpark construction receives certification from the Leadership in Energy and Environmental Design ("LEED") pursuant to standards for new construction developed by the U.S. Green Building Council. LEED emphasizes state of the art strategies for sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality. The design team for the Ballpark includes LEED certified architects, who are well versed in the LEED standards for new construction. Please refer to the slides presented by Ms. Klumpp at the Zoning Commission hearing which are attached to Exhibit D to this Second Supplemental Statement for additional information on environmental mitigation measures to be implemented at the Ballpark. As stated in the Supplement filed on June 23rd, the Ballpark is being designed to address groundwater, building and site storm water, and field drainage in ways that minimize or eliminate negative impacts to the Anacostia Watershed. While these systems are still under design, it is anticipated that they will incorporate filtering systems to eliminate the potential for excess nutrient run-off from field fertilizing and run-off of refuse or chemicals from building wash-down activities. Water efficient landscape materials that are drought resistant and that will not require irrigation will be used for site plantings and low flow plumbing fixtures including timed lavatory faucets will be used to reduce water consumption.

Roofing materials with a high reflectance to minimize heat generation will be incorporated into the Ballpark design.

All adhesives, sealants, paintings and coatings selected will be low-emitting materials and will not exceed VOC limits established in the Green Seal Standard or South Coast Air Quality Management District rules.

Up to 10 percent of the building materials in the construction of the Ballpark will consist of recycled materials, including recycled steel content in the structure. In addition, a variety of sustainable finish materials will be utilized for the interiors, including flooring and millwork systems manufactured from rapidly renewable resources. Dedicated space within the Ballpark has been set aside to accommodate a recycling program for building waste products.

Finally, the Ballpark Site is enrolled in the Voluntary Cleanup Program and remediation of existing conditions is on-going. Through its active management of remediation efforts, the DCSEC is improving the overall quality of the site.

G. NEIGHBORHOOD SAFETY

Advisory Neighborhood Commissioner Assalam raised a concern about the protection and safety of residents west and south of the Ballpark in light of increases in pedestrian traffic through the neighborhood on Ballpark days. In addition to the responsive statement provided by Alan Harwood, and attached hereto as Exhibit E, as noted in the application, the DCSEC is working with the District of Columbia Department of Transportation (“DDOT”), a transportation consultant, Gorove-Slade, and affected neighbors to minimize parking and traffic conflicts between Ballpark patrons and neighborhood residents. Many of the parking and traffic mitigation measures that will be implemented at the Ballpark on game days are a direct outgrowth of the experience gained from the past season of the National’s at RFK Stadium.

Such measures will be designed to ensure that neighborhood residents retain their on-street parking and are able to freely navigate their way around the Ballpark during game days. The design and operations of the traffic and parking systems of the Ballpark will be sensitive to their impact on neighborhood residents. In addition to the parking facilities located on the Ballpark Site, it is anticipated that sufficient off-street parking will be available in commercial surface lots and subsurface parking lots located within existing and to be constructed commercial developments that are (i) not within the residential neighborhoods; (ii) within reasonable walking distance of the Ballpark; and (iii) accessible from arterial streets. The location and routing of vehicles to these parking facilities will not encroach on neighborhood areas, in particular the community west of the Ballpark Site across South Capitol Street. The Traffic Operations and Parking Plan (“TOPP”) for the Ballpark will include measures to protect the neighborhood from game day cut-through traffic (through the placement of traffic control officers, physical barriers or other measures agreed to by the community). Before and after games, special signal timings, turn restrictions and traffic control officers placed at key intersections will direct traffic to major arterials and freeways and discourage the use of local streets to access Ballpark parking facilities. On-street parking by Ballpark patrons in residential areas will be heavily discouraged. The on-street parking restrictions implemented at RFK Stadium during this past season’s ballgames will be reviewed and a form of such restrictions will be implemented in the neighborhoods surrounding the Ballpark. In cooperation with DDOT and WMATA, pedestrian routes from Metrorail stations and parking locations will be signed and marked to minimize the number of Ballpark patrons walking within neighborhoods to the north and west of the Ballpark. As for neighborhood security, the DCSEC intends to work with the Metropolitan Police Department to develop a security plan that mobilizes the personnel needed for public safety and security needs

at a Major League Baseball event, including ensuring that disruption in the adjacent neighborhoods is kept to a minimum and loitering and public intoxication laws are strictly enforced. The Ballpark, as a civic structure in a city of neighborhoods, fully intends to be a good neighbor.

H. AFFORDABLE HOUSING

The development on the northern portion of the Ballpark Site will consist of approximately 672 units of housing totaling approximately 725,000 square feet, of which approximately 63 units would be reserved for low and moderate income renters or purchasers. Of these units, 10% will be priced at 80% of Area Mean Income; 5% would be priced at 60% of Area Mean Income and 5% would be priced at 30% of Area Mean Income (as calculated by the Housing Production Trust Fund administered by the Department of Housing and Community Development. According to the definition of “affordable dwelling unit” in the Zoning Regulations, an affordable unit is one which is sold or rented to a “household of low or moderate income.” A “low income household” is defined as “a household of one or more individuals with a total income equal to less than 50% of the Standard Metropolitan Statistical Area median as certified by the Department of Housing and Community Development.” A “moderate income household” is defined to include households with incomes equal to greater than 50% and less than 80% of the median. These definitions allow for calculation consistently with the calculations conducted by the Housing Production Trust Fund.

I. STADIUM PERIMETER SECURITY

As stated in the application, and provided that funding becomes available, a combination of decorative bollards, hardened benches, hardened light poles, other hardened street furnishing, and concrete seat walls and planters will provide security for the Ballpark perimeter. The

DCSEC is still studying the design, need and feasibility of installing these features. Should such feature be used the design team will use the recommendations of the NCPC "The National Capital Urban Design and Security Plan" and coordinate with Office of Planning and DC Department of Transportation on the final design.

4. **CONCLUSION**

For the foregoing reasons, and for the reasons set forth in the Application, the DCSEC submits that, with the exception of the items for which relief is sought, the proposed Ballpark is consistent with 11 DCMR §1606. Accordingly, DCSEC respectfully requests the Zoning Commission approve the Ballpark, the related development on the northern portion of the Ballpark Site, the above-grade parking garages, and the additional relief sought in the Application as set forth and as modified herein.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, L.L.P.

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LIST OF EXHIBITS

(To be included in Supplemental Statement)

- Exhibit A Slides from HOK Zoning Presentation at June 26, 2006 Public Hearing
- B Views of Capitol from Seating Bowl
- C Memorandum of Understanding between DDOT and DCSEC (*may be provided under separate cover*)
- D Memorandum from Susan Klumpp, HOK Responding to Anacostia
- E Neighborhood Safety Response of Alan Harwood
- F Plan and Elevation Drawings of South Plaza Concept
- G Elevation Drawings of S. Capitol Ramp
- H Plans and Elevations of Northern Buildings
- I Revised Project Profile