

**THE CESAR CHAVEZ PUBLIC CHARTER SCHOOLS FOR PUBLIC POLICY**

**SOLICITATION FOR PROPOSALS**

**Janitorial and Facilities Management Services**

The Cesar Chavez Public Charter Schools for Public Policy, in accordance with section 2204 (c) (1) (A) of the DC School Reform Act of 1995 (Public Law 104-134), hereby solicits proposals for Janitorial and Facilities Management Services for our schools.

All necessary forms and a full RFP may be obtained by calling 202-547-3975 ext. 11.

The Cesar Chavez Public Charter Schools will receive bids from June 29, 2007 to COB July 10, 2007. Send Proposals to:

Attn: Roc Blakeney  
709 12<sup>th</sup> Street, SE  
Washington, D.C. 20003.

**THE CESAR CHAVEZ PUBLIC CHARTER SCHOOLS FOR PUBLIC POLICY  
SOLICITATION FOR PROPOSALS**

**Legal Services Related to Bond Issuance and School Construction Project**

The Cesar Chavez Public Charter Schools for Public Policy, in accordance with section 2204 (c) (1) (A) of the DC School Reform Act of 1995 (Public Law 104-134), hereby solicits proposals for Legal Services related to a public bond issuance and a school construction project.

All necessary forms and a full RFP may be obtained by calling 202-547-3975 ext. 10.

The Cesar Chavez Public Charter Schools will receive bids from June 29, 2007 to COB July 6, 2007. Send Proposals to:

Attn: Devon Murphy  
709 12<sup>th</sup> Street, SE  
Washington, D.C. 20003.

**CAPITAL CITY PUBLIC CHARTER SCHOOL****REQUEST FOR BIDS**

## Meals for National School Breakfast, Lunch and Snack Programs

Capital City Public Charter School is seeking bids for the delivery of breakfast, lunch and snack to children enrolled at its school for the 2007-2008 school year, with a possible extension of four (4) one-year renewals. All meals must meet, but are not restricted to, minimum National School Breakfast, Lunch and Snack meal pattern requirements.

Capital City will be receiving bids until July 16, 2007 at 12:00 noon. Bids may be mailed to, or dropped off at, the school, at the address below.

Meal pattern requirements, production record/delivery ticket format, all necessary forms additional information may be obtained from:

Robin Harris  
Capital City Public Charter School  
3047 15<sup>th</sup> Street, NW  
Washington, DC 20009

(202) 387-0309 (ph)

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

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in eight (8) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2006 Repl. Ed.

**VACANT:        3D07, 3D08, 6B11, 8B03, 8B07, 8C05, 8C06, 8E01**

Petition Circulation Period: **Monday, July 2, 2007 thru Monday, July 23, 2007**

Petition Challenge Period: **Thursday, July 26, 2007 thru Wednesday, August 1, 2007**

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

**D.C. Board of Elections and Ethics  
441 - 4<sup>th</sup> Street, NW, Room 250N  
Washington, DC 20001**

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

**ELSIE WHITLOW STOKES COMMUNITY FREEDOM PUBLIC CHARTER SCHOOL**  
**REQUESTS FOR PROPOSALS**

The Elsie Whitlow Stokes Community Freedom Public Charter School, in compliance with Section 2204 (c) of the District of Columbia School Reform Act of 1995, hereby solicits expression of interest from contractors for the following services:

**I. Commercial Custodian / Cleaning Contractor**

Contractor sought to provide daily cleaning services, sanitation and upkeep of the building. Job requirements will include daily vacuuming, moping, sweeping, dusting, cleaning and buffing. Bathrooms, classrooms, food preparation area and offices require cleaning and sanitizing. Daily removal of trash to outside receptacles is also required. Cleaning will also be required one Saturday per month. At least three (3) times a year arrangements should be made to clean carpets and floors as well as thorough building cleaning including: windows, trash cans, etc.

The bid quote should provide a separate line item, which will reflect the additional cost of supplies and materials necessary to maintain adequate paper products and soap for school facilities. The use of environmentally friendly cleaning products is preferable.

**II. Special Education Services**

Social service contractors sought from individuals/organizations licensed in the District of Columbia for the following services: physical, speech/language and occupational therapy services. The provider will offer the services on-site in accordance with Individual Education Programs (IEP) for its students with disabilities. Evaluations will serve to determine initial and on-going eligibility for special education services. The services required are for both individual and group settings. Each service must have a separate bid submitted.

Bids must be addressed to Erika Bryant, Director of Operations and can be sent by fax to 202-265-4656 or by e-mail [erikab@ewstokes.org](mailto:erikab@ewstokes.org). Final bids are due by noon on Friday, July 06, 2007.

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE, Washington, D.C. intends to issue a permit to construct and operate one (1) 400 kW diesel emergency generator in the Internal Revenue Services office located at 1111 Constitution Avenue, Room G-518, Washington, D.C.

The application to construct/operate the generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Cecily Beall  
Associate Director  
Air Quality Division  
District Department of the Environment  
51 N Street, NE  
Washington D.C. 20002

**No written comments postmarked after July 29, 2007 will be accepted.**

For more information, please contact Olaniyan Tajudeen at (202) 535-2998.

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE, Washington, D.C. intends to issue a permit to construct and operate one (1) 60 kW diesel emergency generator and one (1) 60 kW air compressor set in the Flippo Construction Company located at 1314 First Street, SE, Washington, D.C.

The application to construct/operate the generators and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Cecily Beall  
Associate Director  
Air Quality Division  
District Department of the Environment  
51 N Street, NE  
Washington D.C. 20002

**No written comments postmarked after July 29, 2007 will be accepted.**

For more information, please contact Olaniyan Tajudeen at (202) 535-2998.

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, NE, Washington, D.C. intends to issue a permit to construct and operate one (1) 600 kW diesel emergency generator at Building 39, Fort Lesley J. McNair, 4<sup>th</sup> and P Streets, SW, Washington, D.C.

The application to construct/operate the generator and the draft permit are available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments should be addressed to:

Cecily Beall  
Associate Director  
Air Quality Division  
District Department of the Environment  
51 N Street, NE  
Washington D.C. 20002

**No written comments postmarked after July 29, 2007 will be accepted.**

For more information, please contact Olaniyan Tajudeen at (202) 535-2998.

**FRIENDSHIP PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

Friendship Public Charter School (FPCS) is soliciting proposals for the following services:

- I. ALTA survey** for Lot 821, Lot 47, Parcel 234/31, Lot 812, and Lot 822.
- II. Certified Survey** to Mark the following parcels/lots: for Lot 821, Lot 47, Parcel 234/31, Lot 812, and Lot 822.
- III. Geotechnical Services** for Lot 821, Lot 47, Parcel 234/31, Lot 812, and Lot 822.
- IV. Environmental Services** for Lot 821, Lot 47, Parcel 234/31, Lot 812, and Lot 822.

Please note that a subdivision has been completed for Lots 822, 821, and Parcel 234/31.

An electronic copy of the full Request for Proposals (RFP's) may be requested by contacting:

Valerie Holmes  
[vholmes@friendshipschools.org](mailto:vholmes@friendshipschools.org)  
202-281.1722

**DEPARTMENT OF HEALTH****NOTICE**

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat 744; D.C. Official Code § 1-307.02), Reorganization Plan No.4 of 1996, and Mayor's Order 97-42, dated February 18,1997, hereby gives notice of the approval of an amendment to the District of Columbia State Plan for Medical Assistance (State Plan) governing Payment for Reserved Beds. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services approved the State Plan with an effective date of May 1, 2007. A notice of final rulemaking governing payment for reserved beds was published in the *D.C Register* on April 27, 2007 (54 DCR 3879). The April 27<sup>th</sup> final rules shall also have an effective date of May 1, 2007.

Copies of the approved State Plan amendment may be obtained on the Department of Health (DOH), Medical Assistance Administration's (MAA) website or by contacting DOH-MAA at 825 North Capitol Street, N.E., 5<sup>th</sup> Floor, Washington, D.C. 20002.

**OPTIONS PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSAL (RFP)****Professional Food Management**

Options Public Charter School is soliciting proposals for the professional food management of its facility located at 1375 E Street NE, Washington 20002. The population will be approximately 240 students, and the kitchen facility will not be shared. We are requesting proposals from qualified companies for the management of our National School Lunch and Breakfast programs.

All interested companies must be familiar with and have a successful history in managing the Federal School Lunch Program. All bids must be received by 2:00PM on July 16, 2007. Copies of the proposal specifications can be obtained after June 29, 2007. Any interested and qualified companies may contact:

LaTanya Adams  
Administrative Assistant  
Options Public Charter School  
1375 E Street, NE  
Washington, DC 20002  
Tel: 202-547-1028, ext 222  
Fax: 202-547-1272  
Email: ladams@optionsschool.org

**PHILLIPS PUBLIC CHARTER SCHOOL****Request for Proposals****Standards, Curricula, Assessment and Accountability Consultant**

PHILLIPS Public Charter School, in compliance with Section 2204 (C) of the District of Columbia School Reform Act of 1995 hereby solicits requests for proposals for Standards, Curricula, Assessment and Accountability Consultant

The full text for the proposal is available by emailing [chris.leibner@phillipsprograms.org](mailto:chris.leibner@phillipsprograms.org) or by calling 703.941.0780 ext.206.

**Deadline for submissions is July 10, 2007.**

Please mail proposals and supporting documents to:

Chris Leibner, CAO  
PHILLIPS Public Charter School  
c/o PHILLIPS Programs  
7010 Braddock Road  
Annandale, VA 22003

**DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY****NEW JUBILEE PHASE II PROJECT****Notice of Intent to Issue Bonds**

On July 2, 2007, the District of Columbia Housing Finance Agency intends to transmit to the Council of the District of Columbia a notice of the Agency's intent to issue tax-exempt and/or taxable housing revenue bonds in an amount not to exceed \$13,000,000 for the acquisition and rehabilitation of the New Jubilee Phase II Project located at 2233 18<sup>th</sup> Street, N.W., and 1740 Euclid Street, N.W., in Ward 1 (the "Project"). The Project consists of two buildings with a proposed mix of 70 units, comprised of efficiencies, one (1)-, two (2)- and three (3)- bedroom units. A minimum of 40% of the units, with a projected goal of 100% of the units, will be set aside for households with incomes at or below 60% of the area median income.

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

**Application No. 17617 of First Congregational United Church of Christ, et al**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street loading facility requirements under section 2201, a special exception from the roof structure requirements under sections 411 and 770.6, a special exception for a waiver of the rear yard requirements under section 774, to allow the construction of a mixed-use church and residential development in the DD/C-4 District at premises 945 G Street, N.W. (Square 375, Lot 823).

*Note: The alternative relief advertised in this application, a variance from the side yard requirements under subsection 775.5, was eliminated.*

**HEARING DATE:** June 12, 2007  
**DECISION DATE:** June 12, 2007 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception relief under sections 411, 770.6, and 774. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11



**BZA APPLICATION NO. 17617**

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PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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

TWR

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

**Application No. 17623 of Meredith Manning**, pursuant to 11 DCMR § 3104.1, for a special exception to construct a rear porch addition to an existing single-family row dwelling under section 223, not meeting the lot occupancy (section 403), and open court (section 406) provisions in the R-5-B District at premises 1622 Florida Avenue, N.W. (Square 174, Lot 53).

**HEARING DATE:** June 19, 2007

**DECISION DATE:** June 19, 2007 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR'S OFFICE**

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1C, which is automatically a party to this application. ANC 1C submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by

BZA APPLICATION NO. 17623

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findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 8 – Plans) be **GRANTED**.

**VOTE:** 5-0-0 (Curtis L. Etherly, Jr., Gregory N. Jeffries, Ruthanne G. Miller, Marc D. Loud and John A. Mann II to Approve)

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

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** JUN 21 2007

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

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT.

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DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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

**Application No. 17628 of Paul and Christina Wilson**, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio limitations under subsection 1203.3, and pursuant to 11 DCMR §§ 3104.1 and 1202, a special exception to allow an addition to an existing flat (two-family dwelling) under section 223, not meeting the lot occupancy requirements (section 403), in the CAP/R-4 District at premises 323 C Street, S.E. (Square 791, Lot 823).

**HEARING DATE:** June 19, 2007

**DECISION DATE:** June 19, 2007 (Bench Decision)

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

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

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B submitted a late report related to the application. The Board waived its rules to accept the late filing which expressed support for the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.



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FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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

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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****NOTICE OF SPECIAL PUBLIC MEETING**

The Zoning Commission of the District of Columbia, in accordance with § 3005 of the District of Columbia Municipal Regulations, Title 11, Zoning, hereby gives notice that it has scheduled a Special Meeting for Monday, July 30, 2007, at 6:30 P.M., to consider various items.

For additional information, please contact Sharon Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 02-51A**

**Z.C. Case No. 02-51A**

**(First Stage Modification Application to an Approved Planned Unit Development of  
Rhode Island Associates Limited Partnership)**

**February 12, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on December 14, 2006, to consider an application from Rhode Island Associates Limited Partnership ("Partnership") for first stage review and approval of a modification to an approved planned unit development for Square 182, Lots 82 and 83 pursuant to Chapters 24 and 30 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR §3022. For the reasons discussed below, the Commission grants the application.

**FINDINGS OF FACT**

**PUD Site**

1. The planned unit development ("PUD") site consists of Square 182, Lots 82 and 83 ("PUD Site"). It is located on the south side of Rhode Island Avenue, N.W., between 16<sup>th</sup> Street to the east and 17<sup>th</sup> Street to the west at 1616 Rhode Island Avenue, N.W. in Ward 2. The PUD Site has a total land area of 32,726 square feet and approximately 230 feet of frontage along Rhode Island Avenue. It abuts alleys to the east, west, and south.
2. The site that is the subject of the modification application is the western one-half of the PUD Site and consists of Square 182, Lot 82 ("Project Site"). The Project Site is approximately 15,394 square feet in area and has been used as a surface parking lot for several years. It is bounded by a public alley and the Human Rights Campaign headquarters office building to the west. To the east is the other half of the PUD Site, which includes the University of California building.
3. The PUD Site is located in the C-4 Zone District. The properties in the vicinity of the site are located in the C-4, SP-2, and SP-1 Zone Districts. The areas surrounding the PUD Site include major office development to the south of the PUD and a mix of office, hotel, residential, and recreational facilities at moderate and high densities to the east, west, and north of the site. Immediately to the south of the PUD Site is the Sumner-Magruder School office complex.

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4. The PUD Site is designated as appropriate for high-density commercial use pursuant to the Comprehensive Plan and is located in the Central Employment Area. It is located within three blocks of both the Farragut North Metro Station and the Dupont Circle Metro Station. (Exhibit 40, Exhibit C – p. 7)
5. The PUD Site is located in the southeastern portion of the Dupont Circle Overlay District and is northwest of the Downtown Development Overlay District.

#### Procedural History

6. Zoning Commission Order No. 638, dated December 15, 1989, approved a consolidated PUD and map amendment from SP-2 to C-4 of the PUD Site (“Original PUD”). The Original PUD permitted the construction of a mixed-use building containing residential, office and retail space to a maximum height of 106 feet and a floor area ratio (“FAR”) of 8.5.
7. The Commission subsequently approved an interim use of the PUD Site, minor modifications to the PUD, and extensions of the PUD in Zoning Commission Order Nos. 638-A, 638-B, 638-C, 638-D, and 638-E.
8. In 1998, the Commission approved the subdivision of the PUD Site and authorized two discrete buildings. The eastern half of the site, now known as Lot 83, was approved to allow the University of California to construct a mixed-use building for office, academic, and residential uses. The western half of the site, now known as Lot 82, was approved for the construction of a suites hotel. The Commission approved a density of 8.2 FAR for the PUD Site, with 3.05 FAR to be reserved to residential uses and 5.15 FAR to be allocated to office, academic, and commercial hotel uses. A 8.5 FAR was approved for the University’s building and a 7.9 FAR was approved for the hotel (Zoning Commission Order No. 638-F).
9. The University of California subsequently purchased Lot 83 from Rhode Island Associates Limited Partnership and constructed its project. The eastern half of the PUD Site is occupied by the University of California’s “Washington Center.” Rhode Island Associates Limited Partnership remains the owner of Lot 82 and a hotel was never constructed on the PUD Site. (Zoning Commission Order No. 02-51; Exhibit 40, Exhibit F – p. 2)
10. In 2000, the Human Rights Campaign (“HRC”) and its affiliate, the Human Rights Campaign Foundation, entered into a contract to purchase Lot 82 from Rhode Island Associates Limited Partnership. In 2001, HRC filed an application to modify the approved PUD to change the permitted use for Lot 82 from commercial hotel to office building and substitute a new design and plans for the proposed headquarters building of HRC. A public hearing was conducted by the Commission on July 12, 2001. After the public hearing, HRC opted not to pursue the proposed development and informed the

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Zoning Commission that it was finalizing an offer from a hotel developer to construct a hotel project satisfying the requirements of Zoning Commission Order No. 638-F and simultaneously requested a one-year extension of Order No. 638-F.

11. On September 17, 2001, the Commission voted to grant HRC's request to extend the PUD and tabled action on HRC's request to modify the approved PUD. (Zoning Commission Order No. 871-A)
12. HRC's hotel developer did not consummate the transaction and the property was retained by Rhode Island Associates Limited Partnership. (Zoning Commission Order No. 02-51)
13. On September 5, 2003, the Commission granted another extension of the PUD until April 14, 2005. (Zoning Commission Order No. 02-51)
14. On April 12, 2005, Rhode Island Associates Limited Partnership filed a motion to modify the PUD and to simultaneously extend the PUD. The Partnership proposed an office building that was 110 feet in height, consisted of 130,870 square feet (8.5 FAR) and included up to 120 parking spaces.
15. The Commission scheduled a hearing on the request for September 30, 2005. Before the hearing began, the Commission considered several preliminary matters. First, the Commission granted the University of California's request to participate as a party. Second, the Commission requested that the Partnership explicitly address 11 DCMR § 2408.10(b), which provides that the Commission may extend the time a final PUD is valid only if there is "no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD." Third, the Commission considered a request by ANC 2B to postpone the hearing. The Commission continued the hearing to December 1, 2005 to allow the Partnership time to provide a written response to its request regarding 11 DCMR § 2408.10(b). In light of the Commission's continuance of the hearing, it was not necessary to rule upon ANC 2B's request for a continuance.
16. By letter dated November 22, 2005, the University of California informed the Commission that it had reached an agreement with the Partnership concerning a revised design plan that alleviated its objections to the application. The next day, the Partnership submitted its revised plans and requested leave to file the revisions out of time.
17. At the continued hearing held on December 1, 2005, the Commission considered the Partnership's application for a time extension in light of considerable time that had passed since the approval of the first-stage PUD for the site. The Commission indicated that it wanted the Applicant take a "fresh look" at the appropriate, height, bulk, and massing of the building in light of the changes to the surrounding neighborhood. The Commission directed Rhode Island Associates Limited Partnership to revise its

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application, and to apply for a modification, but only as a first-stage PUD within six months (Exhibit 2, p. 6; Transcript for December 1, 2005 Hearing, p. 36.), and would consider the time extension request at the same time it decided the revised application.

18. On May 31, 2006, Rhode Island Associates Limited Partnership filed a first-stage application to modify an approved PUD ("Application").
19. At a public meeting held on July 12, 2006, the Commission set down the Application for a public hearing.
20. The Commission held a public hearing on the Application on December 14, 2006, which was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission recognized project architect Guy Martin, project traffic engineer Martin Wells, and economic analyst Patrick Phillips as experts.
21. At the conclusion of the hearing, the Commission took proposed action to approve, with conditions, the Application and plans that were submitted into the record.
22. The proposed action was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. No response was received as of the date upon which the Commission took final action to approve this application, which occurred after the 30 day period for NCPC comment expired.
23. The Commission took final action to approve the Application on February 12, 2007, by a vote of 3-0-2.

#### PUD Modification Details

24. The Partnership re-designed the building to reflect the character of the Dupont Circle neighborhood.
25. The building on Lot 82 will be occupied by office use. It will consist of a nine (9) story building with a height of 104 feet and contain approximately 129,680 square feet of gross floor area and have a density of 8.4 FAR (the "Project").
26. The Partnership submitted evidence indicating that a commercial hotel is not economically feasible at this location or at a site this size. (Exhibit 56)
27. The density for the PUD Site will be 8.5 FAR with 3.05 FAR dedicated to residential use and 5.45 FAR dedicated to commercial use. The lot occupancy for the PUD Site will be 96%.
28. Approximately 90 parking spaces will be included in a below-grade parking garage on the Project Site and accessed via a driveway from Rhode Island Avenue. The loading

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area for the building will be accessed from the 20-foot-wide alley on the PUD Site's southern boundary.

Benefits and Amenities

29. Rhode Island Associates Limited Partnership provided the following benefits and amenities with the approval of the Original PUD:

- \$150,000 to Ross Elementary School;
- \$10,000 to Dupont Circle Resource Center;
- Local Small and Disadvantaged Business Enterprises Agreement; and
- First Source Employment Agreement.

Each of the benefits and amenities included in this paragraph have been paid in full or executed.

30. In addition to those benefits and amenities that it has already provided, the Partnership has agreed to provide the following benefits and amenities package with the proposed project:

- \$220,000 to constructing planned improvements in Stead Park;
- \$25,000 to improvements of Scott Circle Park;
- \$25,000 to the Dupont Circle Citizens Association;
- \$20,000 to Ross Elementary School;
- \$10,000 to Francis Junior High;
- \$100,000 to Affordable Housing; and a
- "Green" Building Package.
- Providing a secured area for bicycles within the basement.

Consistency with Comprehensive Plan

31. This application is consistent with major themes of the Comprehensive Plan:

- Stabilizing the District's Neighborhoods: The building will replace a surface parking lot with an office building. This promotes infill development, unity of the block, bringing jobs to the neighborhood and activating the streetscape;
- Increasing the quantity and quality of employment opportunities in the District: The Project Site is located near public transportation and is proximately located to both downtown and Dupont Circle. An office building presents numerous employment opportunities for area residents. Rhode Island Associates Limited Partnership has entered into a First Source Employment Agreement and a Local Small and

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Disadvantaged Business Enterprises Agreement to ensure that local residents and businesses will benefit from the PUD;

- Respecting and improving the physical character of the District: The office building better utilizes the Project Site than the surface parking lot it will replace. The construction of the office building will improve the pedestrian experience in the neighborhood and the landscaping will connect the buildings to unify the block. The building's design respects the quality of existing structures and enhances the character of Rhode Island Avenue between 16<sup>th</sup> and 17<sup>th</sup> Streets;
  - Preserving and ensuring community input: Rhode Island Associates Limited Partnership worked extensively with the Advisory Neighborhood Commission and the Dupont Circle Citizens Association to ensure that they supported the introduction of the building to the community;
  - Reaffirming and strengthening the District's role as the economic hub of the national capital region: The office building makes efficient use of the District's infrastructure, including its bus lines, Metrorail, and roadways; and
  - Promoting enhanced public safety: Incorporating an office building into the streetscape in place of the surface parking lot increases the activity at the site and eliminates the potential for loitering.
  - The building will also provide green design features that contribute to the District of Columbia's goal to mitigate the environmental, economic, and social impacts of built structures in the District.
32. The office building furthers the objectives and policies of several major elements of the Comprehensive Plan including land use; economic development; housing; transportation; urban design; and the Central Employment Area. The Project is consistent with the high density commercial designation for the Property on the Generalized Land Use Map.

#### Government Reports

33. The Office of Planning submitted its final report on December 4, 2006. It recommended approval of the first stage application upon several conditions, including:
- The non-profit organization selected as recipient of the \$100,000 affordable housing contribution be a housing trust fund defined under Section 2499 of the Zoning Regulations;
  - Documentation be added to the public record of payment of the affordable housing contribution prior to the issuance of building permits;

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- Identification of the proposed bicycle parking areas on the garage floor plan;
  - Determination of whether the District Department of Transportation's proposal to set aside approximately 5% of vehicle spaces in the proposed garage parking for car sharing vehicles is acceptable; and
  - Documentation of other amenity contributions. (Exhibit 47, pp. 1-2)
34. The Office of Planning concluded that the office building is consistent with numerous goals and standards of the Dupont Circle Overlay District and that the benefits and amenities exceeded the degree of flexibility requested under the approved C-4 Zone District, especially in light of the fact that there were no potential adverse impacts. (Exhibit 47, p.10)
35. The Office of Planning's review of the benefits and amenities found that the project is consistent with the Comprehensive Plan, and supports specific economic development, urban design and employment goals identified in the Plan.
36. The District Department of Transportation submitted a letter on September 26, 2005, stating that the office building will have a negligible impact on existing traffic volumes and should not create dangerous or objectionable traffic conditions in the area. Thus, the District Department of Transportation had no objections to the project. (Exhibit 23)

#### Advisory Neighborhood Commission Report

37. The Advisory Neighborhood Commission ("ANC") 2B initially submitted a letter on December 6, 2006, in opposition to the modification to the PUD citing its benefits and amenities package as inadequate. (Exhibit 48, p. 2)
38. On December 14, 2006, the ANC withdrew its objections to the application and submitted its unqualified support into the record due to the enhanced benefits proposed by the Partnership and recommended that the Zoning Commission approve the application. (Exhibit 52)
39. At the hearing on December 14, 2006, Mark Bjorge testified on behalf of the ANC and reiterated the ANC supports the PUD modification.

#### Other Parties

40. At the first scheduled hearing for this matter on September 29, 2005, the Commission granted party status to the University of California. (September 29, 2005, Hearing Transcript, p. 32)

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41. The Commission also afforded Mark Bjorge the opportunity to file a request for party status; however, Bjorge did not subsequently do so. (Id.)
42. The University of California submitted a letter indicating no opposition to the application on November 22, 2005. (Exhibit 33) The University of California did not participate as a party at the hearing on December 14, 2006.

#### Persons in Support

43. Adam K. Bernstein, next door "neighbor" with the Marriott Courtyard, submitted a letter in support of the PUD modification application on November 29, 2005. (Exhibit 36)
44. William Lipnick, President of 1615 – LLL, LP, the owner of the Beacon Hotel and Corporate Quarters located on the north side of Rhode Island Avenue, submitted a letter in support of the PUD modification application on November 29, 2005. (Exhibit 37)
45. Christopher Braman, Director of Facilities of the Human Rights Campaign Foundation, which is located immediately adjacent to the Project Site, submitted a letter in support of the application on July 26, 2006.
46. No person appeared in opposition to the PUD modification at the public hearing.

#### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.
2. Under the PUD process, the Commission has the authority to consider this application as a two-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
4. The PUD Site meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

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5. The Commission notes that the zoning for the property will not change from the C-4 zoning approved through the Original PUD.
6. The Commission agrees with the testimony of the project architect and the representatives of the Applicant and believes that this project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a commercial hotel development on the Property would provide. The Commission believes that the design and site planning of the project encourages use of public transportation and promotes green design.
7. The Commission finds that the bulk and height of the office building is appropriate for the PUD Site as it complements the heights of both the Human Rights Campaign building to the west and the University of California building to the east.
8. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
9. Approval of the first-stage PUD modification is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of the Office of Planning in this case and finds that the proposed project is consistent with and fosters numerous themes and elements of the Comprehensive Plan. Specifically, the Commission believes that the proposed project furthers the following themes: stabilizing the District's neighborhoods, increasing the quantity and quality of employment opportunities in the District, respecting and improving the physical character, preserving and ensuring community input, reaffirming and strengthening the District's role as the economic hub of the national capital region, and promoting enhanced public safety.
10. The Commission agrees with the conclusions of the Applicant's traffic and parking expert, as well as the conclusions of DDOT that the proposed project will not create any adverse traffic or parking impacts on the surrounding community.
11. The Commission acknowledges that the PUD Site is a second-tier hotel location and is not an ideal location for commercial hotel use. It is satisfied with the economic analysis that the Applicant submitted in support of the conclusion that a commercial hotel is not feasible at this site.
12. The Commission is also satisfied with the economic analysis submitted by the Applicant demonstrating that this is a sub-par site of ground-floor retail use.
13. In accordance with D.C. Official Code §1-309.10(d)(2001 ed.), the Commission must afford great weight to the issues and concerns of the affected ANC. The Commission takes note of ANC 2B's letter and its testimony in support of the project, and has

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accorded to the ANC's decision to support the project the "great weight" consideration to which it is entitled.

14. 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 ed.)) to give great weight to OP recommendations (as reflected in ¶¶ 33 through 35).
15. Notice of the public hearing was provided in accordance with the Zoning Regulations.
16. The Applicant 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** for first-stage of a Modification to a Planned Unit Development for the Property as defined previously herein. The first-stage approval is subject to the following guidelines, conditions and standards:

1. The first stage PUD modification is approved in accordance with the plans and materials submitted by the Applicant and marked as Exhibits 40, 42, and 56 in the record, as modified by the guidelines, conditions and standards of this order.
2. The second-stage design of the PUD modification shall be based on further development and refinement of the plans marked as Exhibit Nos. 40, 42, and 56 of the record, as modified by the guidelines, conditions and standards of this order.
3. In accordance with the plans and materials noted above, the office building shall consist of approximately 129,680 square feet of gross floor area with a FAR of 8.4. The building shall contain nine stories and be no greater than 104 feet tall. Approximately 90 parking spaces must be provided in the below-grade garage.
4. The PUD shall have a maximum FAR of 8.5 and a maximum height of 106 feet. The lot occupancy of the PUD Site shall be no greater than 96%.
5. Rhode Island Associates Limited Partnership shall provide a "green" design package that is substantially similar to that which is included as Exhibit 3 of the Office of Planning's final report submitted on December 4, 2006, Exhibit 47.
6. The Project shall be set back 2 ½ feet from the west alley to a height of 15 feet.
7. In addition to the benefits and amenities that the Partnership has previously provided, the Partnership must submit proof of payment of the following contributions prior to issuance of a building permit issued pursuant to any second stage approval: \$220,000 to planned improvements in Stead Park; \$25,000 to improvements of Scott Circle Park; \$25,000 to

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- the Dupont Circle Citizens Association; \$20,000 to Ross Elementary School; \$10,000 to Francis Junior High; and \$100,000 to Affordable Housing. In its second stage application, the applicant shall provide greater specificity concerning the affordable housing donation, such as the identity of the recipient of the donation and the nature of the recipient's affordable housing program.
8. Rhode Island Associates Limited Partnership shall provide at least 5% of the below grade parking spaces for car-sharing vehicles or fuel efficient vehicles and depict such spaces in its second-stage application.
  9. The Applicant shall provide a secured area for bicycles within its garage, and depict the area in its second-stage application.
  10. The Applicant shall submit, as part of the second-stage application, landscape plans, detailed architectural plans and elevations indicating the design treatment of each building.
  11. The first-stage approval is valid for a period of one year, within which time a second stage application shall be filed
  12. 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 (2001 ed.) *et seq.*, (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

At its public hearing of December 14, 2006, the Commission **APPROVED WITH CONDITIONS** the Application by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve; Carol J. Mitten and John G. Parsons, not having participated, not voting).

At its public meeting of February 12, 2007, the Commission **ADOPTED** this Order by a vote of 3-0-2 (Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve; Carol J. Mitten and John G. Parsons, not having participated, not voting).

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In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on ~~JUN 29 2007~~.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 06-13**

**Z.C. Case No. 06-13**

**Consolidated Planned Unit Development – 1000 Connecticut Avenue, N.W. –  
1000 Connecticut Avenue Associates and PNC Bank, Trustee  
February 12, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on October 23, 2006 to consider an application from 1000 Connecticut Avenue Associates and PNC Bank, Trustee (collectively referred to herein as the "Applicant"), for consolidated review and approval of a planned unit development ("PUD"). 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 public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearings**

1. On February 21, 2006, the Applicant filed an application for consolidated review and approval of a planned unit development ("PUD") for property located at 1725 K Street and 1000 Connecticut Avenue, N.W., consisting of Lots 803, 804, 805, 806, and 847 in Square 163, as well as a small portion of an adjacent public alley to be closed (the "Subject Property"). The Subject Property is located in the C-4 District at the northwest corner of Connecticut Avenue and K Street, N.W.
2. At its public meeting held on June 12, 2006, the Commission voted to schedule a public hearing on the application.
3. On July 14, 2006, the Applicant submitted a Pre-Hearing Statement, marked as Exhibit 16 of the record in this case. The Pre-Hearing Statement addressed a number of concerns raised by the Office of Planning and the Zoning Commission at the public meeting on June 12, 2006.
4. Advisory Neighborhood Commission ("ANC") 2B unanimously voted to support the application at its August 9, 2006 meeting.

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5. On October 3, 2006, the Applicant submitted supplemental information on the proposed project and the architect's statement of design intent, marked as Exhibits 22 and 23 of the record in this case, further refining the original plans.
6. After proper notice, the Zoning Commission held a public hearing on the application on October 23, 2006. The parties to the case were the Applicant and ANC 2B, the ANC within which the property is located.
7. The Applicant presented four witnesses at the Commission's hearing of October 23, 2006, including Michael Gewirz with 1000 Connecticut Avenue Associates; Roy Barris with Pei Cobb Freed & Partners, an expert in architecture; Lou Slade with Gorove Slade Associates, an expert in transportation planning and management; and Steven E. Sher, Director of Zoning and Land Use Services, with Holland & Knight LLP, an expert in zoning and land planning. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Messrs. Barris, Slade, and Sher were qualified by the Commission as experts in their respective fields.
8. On November 20, 2006, the Applicant submitted revised architectural plans that addressed the issues raised by the Commission at its public hearing on October 23, 2006. These plans are marked as Exhibit 33 of the record in this case.
9. At its public meeting held on December 11, 2006, the Commission took proposed action to approve the application by a vote of 4-0-1.
10. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by action dated January 4, 2007, advised, "that the feature at the edge of the roof may exceed the allowable height as mandated by § 7 of the Height of Buildings Act, which states that 'no parapet walls shall extend above the limit of height'" and recommended, "that the National Capital Planning Commission and the Office of Planning staff work together to define architectural elements that constitute a parapet wall, cornice and other elements that are used to embellish buildings."
11. On February 2, 2007, the Applicant submitted additional architectural drawings that clarified that the architectural embellishment at the edge of the roof is not a parapet. The Applicant's submission also submitted excerpts from the transcript of NCPC's deliberations on the PUD project.
12. The Commission took final action to approve the application on February 12, 2007 by a vote of 4-0-1.

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**The PUD Project**

13. The Subject Property is currently improved with a thirteen-story office building at 1725 K Street and a thirteen-story office building at 1000 Connecticut Avenue. The Applicant intends to demolish the existing buildings in order to construct a new twelve-story commercial office building with retail uses on the ground floor. The new building will contain approximately 369,725 square feet of gross floor area, including 14,018 square feet devoted to retail uses. The collective floor-area ratio ("FAR") for the existing buildings—one of which was built prior to the 1958 Zoning Regulations—is 10.70. The new building will have a density of 11.12 FAR and will rise to a maximum height of 130 feet.
14. The project site is located in Ward 2 and consists of Lots 803, 804, 805, 806, and 847 in Square 163, as well as a 244-square-foot portion of an adjacent public alley that will be closed to allow the construction of the proposed building. The total area of the Subject Property is approximately 33,231 square feet. The Subject Property forms an acute angle at the intersection of Connecticut Avenue and K Street, N.W. and is located diagonally across the intersection from Farragut Square. The site occupies approximately 316 linear feet of frontage along K Street, N.W. and 142 feet along Connecticut Avenue, N.W. The Subject Property is located in the Connecticut and K Street area of the Central Employment Area under the Comprehensive Plan, which is characterized by high-density commercial structures.
15. Large office buildings with a predominant height of 130 feet are located to the east, west, north, and south of the site. The building adjacent to the site at 1775 K Street consists of twelve stories and is 130 feet in height. Washington Square, located directly across the public alley to the north, is also built to a uniform height of 130 feet. Across K Street to the south is the commercial office building at 1700 K Street, N.W., which consists of twelve stories and is constructed to a maximum height of 130 feet.
16. The C-4 District is designed for the downtown core that comprises the retail and office centers of the District of Columbia. The C-4 District permits a maximum height of 130 feet if the property abuts a street which is at least 110 feet wide, such as K Street. In addition, the C-4 District permits a maximum density of 10.0 FAR if a building can be built to a height of at least 110 feet. Under the PUD guidelines for the C-4 District, the density may be increased to 11.0 FAR. Also, a five percent increase beyond the maximum height or density permitted under the guidelines is allowed under § 2405.3 of the Zoning Regulations, provided that the increase is essential to the successful functioning of the project and is consistent with the purpose and evaluation standards of the PUD regulations.
17. The Applicant seeks a 1.1% increase beyond the maximum permitted 11.0 FAR under the PUD guidelines, in order to provide for the successful functioning of the PUD. The small increase of 4,195 square feet of gross floor area will allow the owners to leverage the replacement of the existing older buildings on the site, which have outmoded floor plates, outdated systems and no parking, with a modern office building. In conjunction with the

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alley closing, the new proposed floor plan allows the Applicant to provide regular floor plates at the upper floors and provides for sufficient space for both the corridor and offices on the north side of the elevator core, which is in the center of the building. The expanded lobby on the ground floor, which is two stories in height, also accounts for the majority of the density increase. Typically, an entrance to an office building would not be nearly that large, but in order to achieve the level of design excellence envisioned for the building, the Applicant has provided a grand entrance. Finally, in order to provide a monumental façade treatment at the corner of the building, the slight increase in density is also necessary. The modest increase of 1.1% has minimal impacts on the perceived bulk of the building in comparison to what presently exists on the site.

18. The proposed building reflects a design of superior architecture encouraged by the PUD regulations. The building has been designed to complement the recently completed PUD at 1700 K Street across the street to the south and the surrounding large-scale commercial buildings. Unlike the sister building designed by Pei Cobb Freed to the south, whose façades follow the right-angle grid of 17<sup>th</sup> and K Streets, the dominant feature of the proposed PUD site is its acute corner angle formed by the diagonal lines of Connecticut Avenue and K Street. This unique feature led the design to address the continuation of the diagonal line of Connecticut Avenue across Farragut Square to the south and to create a visual gateway to the north and west.
19. The architects have set back the corner façade to create a destination forecourt for a prime retail entrance and to ease the flow of pedestrian traffic around the corner, which is one of the most heavily-traveled intersections in the District as a result of the Metro entrance just to the east. The corner turns in an unanticipated fashion, and in doing so increases the number of corner tenant opportunities while still offering flexible, subdivisible building frontage to respond to individual tenant space needs. The resulting design articulates both the Connecticut Avenue and K Street façades into distinct but interrelated "pavilions."
20. Due to its exceptional length, the K Street frontage has been composed of three granite-faced pavilions. The pilasters of the pavilions extend above the roofline, providing important depth and mass to the granite frame, and composing a cornice above the top floor. Measured in height, the K Street façade extends above the roof level only two feet higher than the extension of the stone "screen" of the sister building at 1700 K Street. Although the K Street façade of 1700 K Street was subdivided only once, the exceptional length of the K Street façade of the proposed PUD—which extends 50 feet further than its sister building—and its southern exposure required a different treatment. The percentage of glass has been reduced in comparison, and the spandrel and columns are clad in stone. Additionally, while the glass and stainless-clad K Street façade of 1700 K Street is figuratively "suspended" above ground floor level, the pavilions of the proposed PUD are, as stone, figuratively anchored firmly to the ground.
21. The shorter Connecticut Avenue frontage is composed of a single pavilion of faceted glass and stainless steel panel cladding, enclosed at its north (alley-facing) and south (park-facing) ends by near-symmetrical return façades folded perpendicular to the

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Avenue. The resultant southeast park-facing façade's orientation addresses Admiral Farragut directly. The Connecticut Avenue façade is clad in materials that heighten the reflection of ambient light and shadow shifting over the course of the day. The present design, consisting of symmetrical folds of carefully proportioned vertical windows, endow the Connecticut Avenue façade with both modern lines and classical grace. The bay windows on the façade will create a visual staccato along the roofline through silhouette alone.

22. The existing buildings on the subject site do not provide on-site parking. The proposed building generates an off-street parking requirement of 148 spaces. The Applicant will exceed this requirement and provide a minimum of 236 spaces. The provision of 236 spaces will address not only the parking needs associated with the proposed building but will also help offset the demand associated with the surrounding buildings, many of which do not include parking.
23. There will be three loading berths and one service space at the rear of the proposed building with access from the public alley system in the square. These berths and the service dock are located on the west end of the building's north side.
24. The following benefits and amenities will be created as a result of the PUD project:
  - a. *Urban Design and Architecture.* The proposed building has been sensitively designed to complement the surrounding large-scale commercial buildings and enhance the prominence of this key intersection of the city's business district. The dated appearance of the existing buildings and their obsolete mechanical and programmatic systems will be replaced with a modern, attractive design developed by the world-renowned architectural firm of Pei Cobb Freed & Partners. The innovative architectural treatment of the proposed building will enhance and restore the visual prominence of this corner in the downtown commercial corridor. The PUD will provide high quality, superior design features to reinforce the visual identity of the Central Employment Area.
  - b. *Special Value to the Neighborhood.* The Applicant will make a \$50,000 contribution to the Golden Triangle Business Improvement District ("BID"). The BID has earmarked the funds for the development of a geographic information system ("GIS"). This system will allow the BID to map out its hard assets, enhance data sharing with the DC Government, and ultimately provide a platform for putting business information on the web and supporting the BID's internal database. The Applicant will also make a contribution in the amount of \$69,600 to the Dupont Circle Citizens Association ("DCCA") that will be used to fund improvements to the National Park Service triangular park at 20<sup>th</sup> and Q Streets, N.W. These contributions target a number of identified needs of special value to the neighborhood and constitute an important amenity of the project.
  - c. *Affordable Housing.* The Applicant will contribute \$841,700 to the Marshall Heights Community Development Organization ("MHEDO") in fulfillment of the

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housing linkage requirement under § 2404 of the Zoning Regulations. These funds will be used to write down the costs of constructing 16,384 square feet of affordable housing in a Housing Opportunity Area. Because the contribution exceeds the linkage requirement under § 2404 by 3,349 square feet, the contribution also qualifies as a public benefit of the PUD project. The value of the additional contribution is \$172,038.

- d. *Sustainable Design Elements.* One of the most significant public benefits of the proposed project is the introduction of a privately funded "green roof" on a tall commercial office structure. Approximately 53% of the rooftop on the proposed building will be planted with low-growing succulent plants of various species. Additionally, the Applicant will design and construct the PUD utilizing the criteria of the Leadership in Energy and Environmental Design ("LEED") Green Building Rating System, a voluntary, consensus-based national standard for the development of high-performance sustainable buildings. Among other things, the building will incorporate such LEED-level elements as reduced water usage, energy performance systems and materials, ozone protection, use of recycled or salvaged construction materials, carbon dioxide monitoring, a high-efficiency ventilation system, and low-VOC finish materials. Such design and construction standards have been recognized by the Zoning Commission as an important public benefit and amenity of planned unit developments.
- e. *Public Space Improvements.* Streetscape and landscaping elements have been incorporated into the design of the new building. The sidewalk along both street frontages shall be composed of borders and isolated fields of granite dimension pavers, with principal fields of special shaped brick unit pavers. This represents an upgrade from the existing brick or poured-in-place concrete paving. New brick paving shall continue approximately forty feet up the north side alley to enhance the visual appearance of what is normally the secondary, utilitarian side of the building. The number of trees located along both frontages will be increased threefold above existing quantities: six trees along K Street—where only two exist today—and three trees along Connecticut Avenue to replace the single existing tree. In order to space the trees evenly along K Street, the Applicant will remove, or relocate closer to the curb, one existing PEPCO vault. All tree planters will be recessed and covered with four-inch by four-inch granite cobbles. Finally, the Applicant will install sidewalk benches along the K Street frontage, where currently there are none. Approximately 70 linear feet of benches will be provided, which will feature a custom design consisting of a natural wood seating surface over a granite-faced base.
- f. *Revenue for the District.* The PUD will generate additional tax revenues for the District. Real property taxes alone are projected to increase annual revenues by approximately \$2.3 million. Taxes on off-street parking revenues, as well as employment and sales taxes, will also add to the District's income.

- g. *Local Business Opportunities.* The Applicant has executed a Memorandum of Understanding with the D.C. Department of Small and Local Business Development ("DSLBD") in order to achieve, at a minimum, the goal of 50% participation by small, local, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project. This memorandum contributes significantly to the District of Columbia goal of ensuring adequate opportunities for small and local businesses to participate in development projects throughout the city.
- f. *First Source Employment Opportunities.* The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the jobs created by the PUD project. The Applicant will use DOES as its first source for recruitment, referral, and placement of new hires for employees whose jobs are created by the PUD.
25. The PUD is consistent with the following elements of the Comprehensive Plan:
- a. *Housing Element:* The Applicant will provide \$841,700 to the Marshall Heights Community Development Organization to write down the costs of constructing 16,384 square feet of low-income housing on vacant land at 4<sup>th</sup> and Mississippi Streets, S.E., which is located within the Wheeler Hills Estates Housing Opportunity Area. This contribution is \$172,038 more than the applicant is required to provide by the housing linkage requirements of § 2404 of the Zoning Regulations.
- b. *Transportation Element:* Development of the project at the present site, within close proximity to the Farragut North and Farragut West Metrorail Stations and numerous Metrobus routes, will promote and stimulate the use of existing mass transit service. Additionally, the creation of a minimum of 236 new parking spaces on a site that does not currently provide parking will also help to reduce parking shortages in the downtown area.
- c. *Urban Design Element:* The proposed PUD will enhance the large-scale commercial quality of the Connecticut Avenue and K Street segment of the Central Employment Area through superior design elements that respect the special character of this prominent commercial corridor. Further, the proposed project will provide a distinguished design that provides a rich and vibrant texture to this prominent corner and enhances the vibrancy of the K Street and Connecticut Avenue retail frontages. The proposed design includes a sizeable forecourt at the corner façade, which will ease the flow of pedestrian traffic around the acute corner of this important intersection.
- d. *Land Use Element:* The proposed project provides a high-density commercial office structure of superior design that will foster the continued growth of the

District's economy and employment base and serve as a focal point for commercial Downtown.

- e. *Ward 2 Element*: The PUD is consistent with the Ward 2 Plan goal of encouraging construction of additional office space in the Connecticut Avenue and K Street segment and other areas of the Central Employment Area.
  - f. *Generalized Land Use Maps*: The PUD is consistent with the Generalized Land Use Maps, which depict the project site as located in a high-density commercial land use category.
26. The proposed PUD deviates from the normal matter-of-right requirements of the Zoning Regulations for penthouse setbacks. The penthouse of the proposed PUD, which is constructed to its maximum height of 18.5 feet, will not be set back from the rear building line a distance equal to its height as required by § 770.6 of the Zoning Regulations. It is necessary to locate the penthouse closer to the rear building line in order to provide the most efficient interior elevator core and layout of space, while respecting the building height and sight lines along K Street and Connecticut Avenue. By virtue of the public alley at the rear, however, there is a substantial setback of more than 20 feet from the adjacent property to the north. This setback satisfies the spirit and intent of the Zoning Regulations. Moreover, the penthouse will provide ample setbacks of more than 35 feet at K Street and more than 50 feet at Connecticut Avenue in deference to the building's public street frontages. This is approximately twice the required setback distance.

#### **ANC Report**

27. By letter dated October 2, 2006, ANC 2B noted its unanimous support for the PUD project.

#### **Office of Planning Report**

28. By report dated October 13, 2006, the Office of Planning ("OP") stated that it could not fully support the PUD application. OP found that the proposed PUD is consistent with the designation of the area as "high-density commercial" in the Comprehensive Plan's Generalized Land Use Map and further noted that the public space improvements, sustainable design features, community amenities package, increased tax revenues, and the agreements with DSLBD and DOES are public amenities that should be balanced against the requested flexibility from the Zoning Regulations. However, OP nevertheless was unable to fully support the application for three principal reasons: (1) OP did not believe that the architectural design of the proposed PUD was of a "superior" quality; (2) the Applicant had not yet provided signed agreements with DOES, DSLBD, and the beneficiaries of the community amenities package; and (3) OP did not believe that the proposed amenities package was sufficient to offset the requested flexibility from the Zoning Regulations.

## DISCUSSION OF OP ISSUES

### Superior Architecture

29. Section 2403 of the Zoning Regulations provides that in "deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case." 11 DCMR § 2403.8. That section further requires PUD applicants to demonstrate that "the public benefits offered are superior in quality and quantity to typical development of the type proposed and the duration of the operational or grant programs." 11 DCMR § 2403.12. In determining whether the architectural design of a PUD may be viewed as a public benefit, the Commission must first find that the architecture of the proposed building is superior to what would have been provided if the property had been developed as a matter-of-right.
30. In its report of October 13, 2006, OP expressed the view that the proposed PUD's design did not rise to the level of "superior" architecture and thus should not qualify as a public benefit under the Zoning Regulations. Specifically, the report criticized the perceived lack of articulation between the K Street and Connecticut Avenue façades at the corner of the building and described the retail façade as "cold and monolithic." Based largely upon these aesthetic concerns, OP declined to fully support approval of the PUD.
31. The Applicant disagreed with this assessment and offered testimony on the superior quality of the design over what it would otherwise construct at this corner as a matter-of-right. Roy Barris of Pei Cobb Freed & Partners, an expert in architecture, described the design intent of James Ingo Freed for the project and how this intent is expressed on the building. Mr. Barris explained that the proposed angle of the retail façade creates an axis that runs directly through the center of Farragut Square. He noted that the proposed retail façade more directly confronts the important public space across the street than the chamfered corner of the existing building, which is perpendicular to the centerline of the acute corner upon which it sits.
32. At the Commission's public hearing on October 23, 2006, OP raised a number of additional design concerns. OP claimed that the office levels of the K Street façade were not sufficiently differentiated from the pedestrian-level retail space on the ground floor of the proposed building. According to OP, the focus of the building should be at the corner across from Farragut Square, and the prominent entrance at K Street detracts from the site's main asset. Finally, OP concluded that the overall design of the proposed building is not significantly superior to what would have been developed at this location as a matter-of-right. For these reasons, according to OP, the project did not fully qualify as an example of "superior architecture" that warranted flexibility under the PUD process.
33. Based on these comments, the Commission encouraged the Applicant to restudy the corner design in order to fortify the prominence of this pivotal intersection in the Central Employment Area.

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34. In response, the Applicant made a number of substantial modifications to the PUD's original design. These refinements strengthened the corner façade through the introduction of a discrete "tower" projection. This projecting form has a pairing of large windows at its center and is framed from top to bottom by three layers of construction. The projection is bordered along each side by broad stainless steel framing elements and flanked by deeply recessed symmetrical glass sidelights, which in turn are flanked by beveled face piers of stone. At its top, the tower extends above the roofline—as established by the flanking sidelights—but only to a height in union with that of the adjacent K Street and Connecticut Avenue frontages. The base of this tower projection will be anchored by a monumental storefront entrance. A two-story presence is created by an imposing portal clad in polished granite. This "urban scale" portal will, in turn, surround a smaller-scale portal at street level faced with highly ornamental stainless steel doors. These doors will be sheltered above by a glass and stainless canopy more modest in size than—but of a similar character to—the canopy fronting the building lobby.
35. The Applicant's revised plans also reflect significant modifications to the K Street and Connecticut Avenue façades. The scale and distinction of the K Street storefront at the base of the stone pavilions have been enhanced through the introduction of new framing elements. New steel liners flanking the granite pilasters now extend alongside and across the head of the second-level windows. The liners are inversely beveled with respect to the projecting granite form of the pilasters. Additionally, the second-level windows now have discrete frames, capped with polished stainless steel to match the design and finish of the display windows on the ground floor. These modifications create a two-story presence for the store frontage, as distinguished through the additional shadow relief created by the shaped liners and the increased reflectivity of the additional framing elements. The definition of the storefront at Connecticut Avenue has been similarly enhanced. New beveled stainless steel liners flank the stainless steel pilasters and wrap across the head of the store frontage. The liners are beveled parallel with respect to the inverted form of the pilasters and are polished in finish, adding volume and reflectivity to the display window frames. The end result is a storefront more distinct from the surrounding textured stainless pilasters and spandrels.
36. The Commission finds that the most recent modifications to the proposed PUD significantly enhance the overall quality of the design and more than address many of the architectural concerns raised by OP in its report. The redesigned tower projection provides the kind of high-quality focal point that this important location deserves. The additional architectural embellishments reflected in the Applicant's most recent architectural plans, moreover, effectively distinguish the pedestrian-level retail portion of the building from the office levels above. While OP continued to express reservations about the final design, the Commission finds that these are nothing more than stylistic differences that do not affect the superior quality of the overall design.
37. The Commission appreciates OP's thoughtful design critique. In the end, however, the Commission must determine, based on the evidence of record, whether the design is superior in quality and quantity to typical development, and not whether it would have

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- designed the building differently. *See* 11 DCMR § 2403.8. Rather, the Commission must first establish what a developer would likely build here as a matter-of-right and then compare that to proposed PUD. The Commission's analysis is not limited to just the architectural treatment of the building, but the overall planning considerations and site enhancements that benefit the public as a whole, which the Applicants would only pursue through the PUD process.
38. The Applicant testified that it would not invest in the same quality of design, materials and project amenities if it were to build a matter-of-right project at this site. Michael Gewirz of 1000 Connecticut Avenue Associates testified that the ownership entity for this project has been responsible for the development of several million square feet of office, residential, mixed-use, and retail properties in the District over a period of 80 years. Based on this experience, Mr. Gewirz estimated that the amenities provided with the proposed PUD would represent a cost premium of \$3.2 million above what would have been expended if the site had been developed as a matter-of-right.
39. Mr. Gewirz further testified that the Applicant's goal for this project is to incorporate superior architecture and design at a prominent location with unique limitations in a way that better reinforces an unusual acute corner, improves pedestrian circulation at the base, and creates a unified and appropriately scaled retail orientation from Connecticut Avenue, around the corner and down K Street. The project employs modern materials that suggest but do not imitate the sister building across the street, 1700 K. He noted that while the criteria for some projects is faster, better and cheaper, this project will not be cheaper in anyway. In fact, he testified that it will be built with quality materials that come at a significant premium to other materials that are currently available.
40. The architect provided detailed testimony on the complex palette of quality materials for the project. Two different finishes of granite – polished and unpolished – are used on the K Street façade, which is the same granite used on the Farragut Square elevation of the 1700 K Street building. Mr. Barris stated the granite is almost unique because it has a figuration, grain and sparkle, which are more evident with the contrasting finishes. Similarly, stainless steel columns and window frames have either a brushed, textured or polished finishes designed to respond to changes in sunlight during the course of the day. According to Mr. Barris, the complex palette will produce visual effects that cannot be adequately represented in an architectural rendering. Similarly, the combination of beveled granite pilasters and inversely beveled stainless steel liners at the pedestrian level of the K Street façade will use a combination of shadow relief and reflectivity to differentiate this retail space from the office levels above. Mr. Barris testified that many of these architectural features would be absent from a by-right building on the same site.
41. Mr. Barris concluded that the proposed PUD was far superior to what would be provided as a matter-of-right at this site. He testified that a matter-of-right project at this corner would invariably eliminate the costly design elements and finishes that have been incorporated into the proposed PUD. Among other things, Mr. Barris stated that the projecting bays on the Connecticut Avenue façade would most likely be eliminated due to their

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extraordinary expense and replaced with a flush window wall. He also noted that many of the ornamental finishes, such as the beveled granite pilasters, or the broad caps stainless steel caps on the windows, on the proposed building would likely be replaced with more standard materials and finishes.

42. Mr. Barris testified that Clark Construction Company provided a cost comparison between the 1700 K Street building, an expensive building in its own right that would not have been built as a matter-of-right, and the proposed PUD. After adjustments for inflation, Mr. Barris testified that Clark estimated that the cost of the proposed PUD design was approximately \$7.00 per square foot more than its sister building at 1700 K Street, or roughly an eight to nine percent increase above *another PUD*, not just another matter-of-right project. In fact, the record indicates that the high-quality finishes and public space improvements provided by the PUD cost approximately fifteen to twenty percent more than what is typically expended at other downtown office building sites.
43. The Commission finds it noteworthy that OP acknowledged the superior quality of the building's construction materials and described the proposed streetscape improvements as "a welcome addition to the public realm." While OP was not willing to go so far as finding the building one of "superior architecture," it did recognize that the building envelope was well-balanced throughout the PUD site.
44. Based on the testimony and evidence of record, and in particular, the Applicant's comparison of the superior nature of the proposed project with what would otherwise be achieved by right, the Commission finds the proposed PUD to be one of "superior design." Not only does the PUD offer high quality finishes and thoughtful design considerations, it features streetscape improvements, a green roof and other sustainable design elements, discussed below, that are rarely – if ever – incorporated into a matter-of-right building. The architectural design of the proposed PUD is thus a "public benefit" that is appropriately balanced against the requested flexibility from the FAR requirements.

#### Sustainable Design Features

45. Section 2403 of the Zoning Regulations define "public benefits" as "superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title." 11 DCMR § 2403.6. That section further provides that the "public benefits" of a PUD may include, *inter alia*, "[e]nvironmental benefits, such as stormwater runoff controls and preservation of open space or trees." 11 DCMR § 2403.9(h).
46. The Applicant has incorporated a number of sustainable design features into the proposed PUD. The proposed green roof, for example, will significantly reduce the average temperature of the building's roof and the "heat island" effect on surrounding properties, and will mitigate stormwater runoff on the Subject Property. The Applicant also intends to equip the building with high-efficiency plumbing fixtures and occupancy sensors to

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reduce municipal water supply and wastewater system usage. The number of trees along the K Street and Connecticut Avenue frontages of the property will be increased threefold, and light-colored paving materials will reduce a "heat island" effect in the public space adjacent to the building. The base building heating, ventilation, and air conditioning ("HVAC") and fire suppression systems will not contain hydrochlorofluorocarbons ("HCFC") or halons and will thus not contribute to the depletion of atmospheric ozone. The new building will also incorporate energy-efficient fixtures and light controls and will employ a high-efficiency tankless water heating system. Finally, the building will be designed to maintain indoor air quality through carbon monoxide monitoring, efficient HVAC systems, and the use of low VOC finishes throughout the building.

### Adequacy of the Public Amenities Package

47. In addition to the specific benefits and amenities listed under § 2403 of the Zoning Regulations, the term "public benefits" also includes any "[u]ses of special value to the neighborhood or the District of Columbia as a whole." 11 DCMR § 2403.9(i).
48. After reviewing the community amenities, the Commission finds that the Applicant's proposed amenities package is commensurate with the additional density provided through the PUD process. The Applicant has requested an additional 4,184 square feet of gross floor area over what is allowed as a matter-of-right under the PUD standards for the C-4 District. The Applicant's package more than offsets the relatively small increase in density for the project. The Commission further finds that the Applicant has provided sufficient documentation of the amenities package.

### NCPC Report

49. The proposed action was submitted to the National Capital Planning Commission for its review pursuant to § 492 of the District Charter.
50. NCPC, by action dated January 4, 2007, found that an architectural element *might* violate § 7 of the Height Act, which provides in relevant part that "no parapet walls shall extend above the limit of height," and suggested that the National Capital Planning Commission and the Office of Planning staff work together to define architectural elements that are currently used to embellish buildings.
51. The Commission finds that the architectural element in question is not a parapet, but is a different type of architectural embellishment. The Commission is nonetheless concerned that the horizontal nature of this embellishment is of a different nature than the vertical elements traditionally permitted as exceptions to the Height Act. In the 97 years since the Height Act was enacted, the shape of architectural embellishments evolved, and the number of different forms has increased, making it difficult to apply to its provisions to present day structures. The Commission therefore supports NCPC's suggestion that it work with the Office of Planning to define architectural elements that constitute a parapet wall, cornice and other elements that are used to embellish buildings.

**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 Zoning 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, off-street parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The proposed PUD site meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the increased density will not cause a significant adverse effect on any nearby properties. The project is a continuation of an appropriate use at an appropriate location in the heart of the Central Employment Area and is immediately proximate to mass transit. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable. The impact on housing is favorable because of the Applicant's proposed housing linkage measures.
6. The proposed application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
7. The project benefits and amenities—particularly the community amenities package, affordable housing funds, and sustainable design elements—are a reasonable trade-off for the density provided in the application, particularly given the high-density commercial nature of property in the immediate area. The subject development is both a K Street building and a Connecticut Avenue building, and the use, height, bulk, and design are appropriate for both sides and both contexts of the building.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.

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9. Approval of this PUD is not inconsistent with the Comprehensive Plan.
10. The Commission is required under D.C. Official Code §1-309.10(d)(2001 ed.) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
11. 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 ed.)) to give great weight to OP recommendations (as reflected in ¶ 27). For the reasons stated above, the Commission does not agree with OP's contention that the architecture is not superior, and that the proposed amenities package is not sufficient to offset the requested flexibility from the Zoning Regulations. With respect to OP's contention that the Applicant has not provided signed agreements with DOES, DSLBD, the Commission has conditioned the issuance of a building permit for the proposed PUD project on the submission of proof that these signed agreements. With respect to OP's contention that the Applicant has not provided a signed agreement with the beneficiaries of the community amenities package, the Commission has conditioned the issuance of the certificate of occupancy on the issuance of a certificate of occupancy for the requisite housing outlined in the agreement the Applicant entered into with the Marshall Heights Community Development Organization for the construction of housing in the Wheeler Hills Estate Housing Opportunity Area.
11. The application for a PUD 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.
17. 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 a PUD for the property located at 1000 Connecticut Avenue, N.W. (Lots 803, 804, 805, 806, and 847 in Square 163). This approval is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Pei Cobb Freed & Partners, dated October 2005, and as amended or supplemented by drawings dated December 2005, October 2006, and November 2006, marked as Exhibits 5, 6, 23, and 33, respectively, in the record, and as further modified by the guidelines, conditions, and standards herein.
2. The project shall be a commercial office development consisting of approximately 369,725 square feet of gross floor area. The PUD project shall not exceed an overall

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- density of 11.13 FAR, nor shall it exceed a height of 130 feet, with setbacks as shown on the plans.
3. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and subject to approval by the Public Space Committee.
  4. The Applicant shall enter into a Contract Construction Agreement with the Marshall Heights Community Development Organization to write down the costs of construction for a minimum of 16,384 square feet of affordable housing on vacant land at 4<sup>th</sup> Street and Mississippi Avenue, S.E., which is located within the Wheeler Hills Estates Housing Opportunity Area. The housing will target households earning 80% of AMI or less. No certificate of occupancy shall be issued for the PUD until a certificate of occupancy has been issued for the requisite housing outlined in the Contract Construction Agreement. The Applicant shall pay \$841,700.00 to the Marshall Heights Community Development Organization to fulfill the housing linkage requirement. If, after the further consideration of the PUD housing linkage policy by the Zoning Commission, it determines that (i) a lesser dollar amount is in keeping with the PUD housing linkage policy; and (ii) a lesser dollar amount will allow for the construction of the required amount of housing linked to the subject PUD, this order shall be modified accordingly, without a public hearing, at the Applicant's request. Any difference between the amount paid by the Applicant and any reduced amount determined under the housing linkage policy may be refunded to the Applicant. The dollar amount shall not be increased.
  5. Prior to the issuance of the building permit for the PUD, the Applicant shall contribute \$50,000.00 to the Golden Triangle BID to fund the development of a geographic information system ("GIS").
  6. Prior to the issuance of a building permit for the PUD, the Applicant shall enter into a Memorandum of Understanding with the D.C. Department of Small and Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project.
  7. Prior to the issuance of the building permit for the PUD, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the jobs created by the PUD project.
  8. The Applicant shall retain a service to monitor compliance with the D.C. Department of Small and Local Business Development Memorandum of Understanding and the First Source Employment Agreement and shall report semi-annually to the Office of Zoning on its efforts to comply with the employment goals of these agreements upon project completion.

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9. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. 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 building;
  - b. to vary the location and minor details of the retail doors along Connecticut Avenue and K Street;
  - c. to vary the number and location of parking spaces, not to decrease below the minimum of 236 spaces;
  - d. to vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
  - e. to make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit. Only those exterior changes initiated by BLRA will be permitted within the context of this element of design flexibility.
11. No building permit shall be issued for this planned unit development until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, which is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.
12. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
13. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.
14. 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 (2001 ed.) et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of

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income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

At is public meeting on December 11, 2006, the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, Michael G. Turnbull to approve; Carol J. Mitten, not voting having not participated).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on February 12, 2007, by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, Michael G. Turnbull to approve; Carol J. Mitten, not voting having not participated).

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 JUN 29 2007.

**ZONING COMMISSION ORDER NO. 06-14****Z.C. Case No. 06-14****Consolidated Approval for a Planned Unit Development at Florida and  
New York Avenues, N.E. – MRP Realty, LLC  
(Square 3584, Lots 23, 811, 812 and 813)****February 12, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on November 30, 2006 to consider an application from MRP Realty, LLC (the "Applicant") for consolidated review and approval of a planned unit development ("PUD"). The application was filed on behalf of and with the consent of Sun Oil Company of Pennsylvania, GMK Title Holder, Inc.; D&H Title Holder III, Inc.; the Washington Metropolitan Transit Authority (WMATA); and the District of Columbia, the owners of the property covered included in 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 public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT****Application, Parties, and Hearing**

1. On March 3, 2006, the Applicant filed an application with the Commission for consolidated review and approval of a PUD for the property located at Square 3584, Lots 23, 811, 812, and 813, located east of the intersection of Florida and New York Avenues, N.E., in Washington, D.C. (the "Property"). The Property consists of 134,665 square feet of land and is located in the C-3-C District.
2. At its public meeting on June 12, 2006, the Commission voted to schedule a public hearing on the application. At the meeting, the Commission requested that the Applicant provide additional information relating to the building facades and the design and operation of the plaza and proposed staircase. The Commission also requested clarification of the traffic impact study.

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3. On July 21, 2006, the Applicant filed a prehearing statement that included the aforementioned information requested by the Commission and additional information requested by the Office of Planning ("OP") pertaining to the location of the entrances to the loading areas, traffic mitigation measures, lot configuration, building height, and residential recreation space. The prehearing statement also included additional information by the Applicant regarding the project benefits and amenities.
4. On November 9, 2006, the Applicant submitted supplemental information in support of the PUD application to the Office of Zoning, which included revised architectural drawings and an updated discussion on the project design and PUD benefits and amenities.
5. At its duly noticed meeting held November 21, 2006, Advisory Neighborhood Commission ("ANC") 5C voted unanimously to adopt a resolution in support of the PUD application.
6. After proper notice, the Zoning Commission held a hearing on the application on November 30, 2006. The parties to the case were the Applicant and ANC 5C, the ANC within which the PUD site is located.
7. At the hearing, the Applicant filed the following documents with the Commission:
  - a. the resolution of support from the ANC;
  - b. a revised list of PUD benefits and amenities;
  - c. a letter from the District of Columbia Commission on the Arts and Humanities regarding a \$50,000 contribution from the Applicant for an arts-related project for the Florida Avenue underpass;
  - d. a letter from City Year regarding a \$25,000 contribution from the Applicant for the Young Heroes program;
  - e. a letter from Emery Elementary School regarding a \$10,000 contribution from the Applicant to the Student Activity Fund;
  - f. a letter from the Harry Thomas Community Service Center regarding a \$10,000 contribution from the Applicant for the purchase and installation of a scoreboard;
  - g. a letter from North Capitol Main Street, Inc. regarding a \$5,000 contribution from the Applicant for the development of database of the commercial/retail properties in the organization's service area;



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- f. a reduction in the height of the wall along New York Avenue from a range of four to eight feet to a height of three feet, six inches for the entire length of the wall.
11. At its meeting on December 11, 2006, the Commission took proposed action by a vote of 5-0-0 to approve the application.
12. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated January 4, 2007, found the proposed PUD would adversely affect federal interests in the National Capital.
13. By letter dated January 25, 2007, the Applicant requested the Commission to reopen the record to accept its response to the NCPC report. The Commission granted the request as a preliminary matter to its consideration of the application. A full discussion of the NCPC comments, the Applicant's response, and the Commission's resolution of the issue may be found at the conclusion of these Findings of Fact.
14. The Zoning Commission took final action to approve the application on February 12, 2007 by a vote of 5-0-0.

### **The PUD Project**

#### **Overview**

15. The PUD will be a mixed-use development consisting of residential, hotel, office, and retail uses. Two buildings are proposed for the project. One will be a residential/hotel building located on the southwest portion of the Property. It will contain approximately 229,690 square feet of gross floor area devoted to residential use and approximately 120,442 square feet of gross floor area devoted to hotel use that will accommodate 230 to 270 dwelling units and 140-195 hotel rooms. Eight percent of the residential floor area will be reserved for persons whose income does not exceed 80 percent of the area median income. The second building will have approximately 601,896 square feet of gross floor area devoted to office use. The PUD will have approximately 7,000 square feet of retail space, primarily fronting on Florida Avenue. In total, the PUD will consist of approximately 951,120 square feet of gross floor area with a density of approximately 7.06 FAR. Under the PUD guidelines, the Property can be developed with a maximum density of 8.0 FAR.

#### **Site Description**

16. The Property is a triangular parcel of land located east of the intersection of Florida and New York Avenues, N.E., adjacent to the WMATA and railroad rights-of-way in the Eckington Yards section of Ward 5. It consists of approximately 134,665 square feet of

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land area and is more particularly described as Square 3584, Lots 23, 811, 812, and 813. A portion of the Property is currently improved with a gas station, but the majority of the site is unimproved. Two jumbo billboards also occupy the site. The Property sits on the northeastern edge of the Central Employment Area and within the boundaries of the NoMA planning area. The Property is designated in the medium-high density commercial land use category on the District's Generalized Land Use Map.

17. The areas surrounding the Property to the south and west are designated in the medium-high density commercial land use category. The areas to the north and east are designated in the production and technical employment land use category. The New York Avenue-Florida Avenue-Gallaudet University Metrorail Station (the "Metrorail Station") is located within one block of the Property, between M and N Streets, N.E.

#### Project Design and Components

18. Mixed-Use Development. Under the existing C-3-C zoning, the Property can be developed as a matter of right as an office project with a maximum density of 6.5 FAR. In lieu of an office development, the Applicant proposed a mixed-use development that will include residential, hotel, office, and retail uses, consistent with the live-work environment encouraged in the NoMA Vision Plan.
19. Public Space Infrastructure. As a result of the open space achieved through the PUD process, the project was designed with a significant public plaza. The master plan for the PUD evolved as an extension of 2<sup>nd</sup> Street, N.E., which, once constructed, will become the primary visual and pedestrian access into the site from the south. In addition to the plaza, other public infrastructure improvements will include substantial upgrades to the sidewalks along Florida and New York Avenues; a monumental stair connecting New York Avenue to the plaza; significant upgrades to the Metropolitan Branch Trail (the "Trail"); connectivity between the Trail, the project, and the Metrorail Station; and a new Metropolitan Branch Trail Atrium (the "MBT Atrium").
20. The Plaza. The plaza was designed to be similar to a European plaza where the space itself becomes a "figure" or "object" defined by the walls of the buildings around it. In the case of the PUD, the west façade of the office building will create a clear spatial backdrop for the plaza while the angled east facade of the residential/hotel building will create depth and proportion to the plaza, distinguishing it from the street leading into it. The primary entrance to the plaza will be from Florida Avenue. The main roadway surface will be pavers, such as tumbled precast pavers, in a patterned field. The sidewalks on either side of the entry roadway, in front of the office building and the residential/hotel building, will be upgraded pavers similar to London pavers. The large bands running east-west across the plaza will be stone pavers, with an inset oval shape of a different texture to define roadway lines. Precast pavers and stone pavers will be laid in the bands as shown in the architectural drawings. The center of the plaza will contain a

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fountain that will be illuminated at night and that will be a visual focal point for the public, the residents, retail customers, and office tenants in the PUD. It will be visible from the overlook along New York Avenue and from the MBT Atrium along the Trail. The seating area in the garden court in front of the entry to the north section of the office building will be separated from the plaza traffic by a serpentine wall and landscape elements and will be open to the public as well as to occupants of the office building. Above the seating area adjacent to the north section of the office building will be a mezzanine-level garden terrace with benches, paving, and landscaping that will serve as an outdoor recreation area for the hotel. It will be visible from New York Avenue, providing a visual amenity, and the trees and landscaping in the garden will provide relief from the overall change in grade from the plaza to New York Avenue.

21. Residential/Hotel Building. The residential/hotel building will be situated on the southwest portion of the Property and will consist of approximately 350,133 square feet of gross floor area. Of that, approximately 229,690 square feet will be for residential use and approximately 120,443 square feet will be for hotel use. A tower element and triangular glass volume will identify the residential/hotel building for the PUD and mark its prominent location at the intersection of Florida and New York Avenues, N.E. The configuration of the tower element will open up to dramatic views toward downtown, create an architectural landmark for the project, and signify the emergence of NoMA as a dynamic and vibrant location. The height of the building will be 130 feet on the New York Avenue side of the building, stepping down along the Florida Avenue side of the building, which will create an urban edge and buffer from traffic on New York Avenue. This design element will also help to minimize the scale of the New York Avenue/Florida Avenue intersection and the plaza on the interior of the PUD. The double-height retail podium, or the lower mass of the building, will face Florida Avenue, while other taller elements of the building will be set back. This will create a more pedestrian-friendly environment, because the apparent scale of the building will be reduced.
22. Office Building. The office building will be situated on the easternmost portion of the Property. It will consist of approximately 601,896 square feet of gross floor area, and extend 130 feet from the measuring point on New York Avenue, stepping down along the Florida Avenue side of the building. The MBT Atrium will be located within the office building. The north section of the office building will have a prominent position as a gateway on New York Avenue for those coming into the city from the east. A glassy tower emphasizing the narrow point of the site will create a dramatic icon for the site at its northeast corner. A floating visual plane composed of a pattern of vertical and horizontal lines will create an element with strong visual interest, while making the first step down in scale toward the neighboring residential/hotel building. This same patterned façade element will occur on the east façade of the building. The south section of the office building will integrate into the fabric and scale of existing and proposed neighboring buildings. A roof terrace was designed at the southeast corner of the

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building to activate it and create a greater sense of appropriate scale. The south façade of the building will have retail frontage along Florida Avenue that will wrap around into the plaza.

### **Matter of Right Development Under Existing Zoning**

23. The Property is located in the C-3-C District, which is intended for medium-high density development, including office, retail, housing, and mixed-use development in a compact area.
24. The maximum building height permitted in the C-3-C District is 90 feet. The maximum permitted density is 6.5 FAR, all of which may be used for residential, office, retail, hotel, or other permitted uses.

### **Development Incentives and Flexibility**

25. The Applicant requested the following areas of flexibility from the Zoning Regulations:
  - a. Roof Structure Requirements: The Regulations require that the penthouse structure on the roof of the residential/hotel building be set back from all exterior walls a distance of 18 feet, 6 inches. The Applicant proposed a reduced setback of six feet on the southeastern portion of the residential/hotel penthouse and 12 feet on the hotel section/courtyard side.
  - b. Residential Recreation Space: The proposed residential/hotel building will have 14,344 square feet of residential recreation space (6.2 percent); 22,969 square feet (10 percent) are required.
  - c. Additional Areas of Flexibility: The Applicant also requested flexibility for the following:
    - 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 will not change the exterior configuration of the building;
    - to vary the location and arrangement of parking spaces, provided that the total will not be reduced below the minimum levels specified in the Plans marked as Exhibit No. 29 of the record and, to the extent that the PUD exceeds the minimum parking specified above, the excess parking will be allocated to the respective uses and/or buildings according to need;

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- to eliminate the interior drive to the south section of the office building should operational and/or security needs require;
- to vary the final selection of the exterior materials within the color ranges and material types as proposed, without reducing the quality of the materials; and
- to make minor refinements to exterior details and dimensions, including curtain wall 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 Construction Codes or that are otherwise necessary to obtain a final building permit.

### **Public Benefits and Amenities**

26. The following benefits and amenities will be created as a result of the PUD:
- a. Mixed-Use Development. Under the existing C-3-C zoning, the Property can be developed as an office project with a maximum density of 6.5 FAR. In lieu of an office development, the Applicant proposed a mixed-use development that will include residential, hotel, office, and retail uses in the type of live-work environment encouraged in the NoMA Vision Plan.
  - b. Housing and Affordable Housing. The single greatest benefit to the area and the District as a whole will be the creation of new housing and home ownership opportunities consistent with the goals of the Comprehensive Plan and the Mayor's housing initiative. The Applicant proposed to devote an area equal to eight percent of the residential gross floor area for persons whose incomes do not exceed 80 percent of the Area Median Income. The construction and distribution of the affordable units, the affordability control period, and the method of selecting the occupants/purchasers of the units will be in accordance with the Planned Unit Development Inclusionary Housing Commitment Standards dated December 4, 2006, submitted by the Applicant, and marked as part of Exhibit No. 38.
  - c. New York Avenue Sidewalk. The entire length of the sidewalk on New York Avenue along the Property, approximately 680 linear feet, will be widened from approximately four feet to 23 feet. Beyond the standard improvements, the sidewalk will have upgraded paving, additional landscaping, and a garden overlook between the hotel and north office section that will provide pleasing views into the plaza below.

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- d. New York Avenue Connecting Stair. The PUD includes a monumental stair connecting New York Avenue to the plaza below and to the surrounding streets. The stair will land in a courtyard space in front of the north section of the office building, which will be an attractive space framed by a sinuous masonry wall and a garden with landscape elements, upgraded paving, and benches.
- e. Florida Avenue Sidewalk. Although the property line for the PUD is six feet north of the curb along Florida Avenue, the buildings will be set back at least nine feet behind the property line to create a sidewalk along Florida Avenue that is at least 15 feet wide. In addition to the standard improvements, the sidewalk, which extends 450 linear feet along the property line, will include upgraded paving and an enhanced landscape area in front of the residential/hotel building.
- f. Florida Avenue Outdoor Seating Area and Retail. Along the majority of the southern face of the residential/hotel building, the sidewalk on Florida Avenue will be further widened to a maximum of 35 feet (29 feet behind the property line), to create an outdoor seating area for the public. The outdoor seating area will be anchored by a two-story building base with retail amenities. The widened sidewalk will also draw people to the plaza by creating a larger and more attractive visual corridor into the site.
- g. Retail on Florida Avenue at the Office Building. The southern base of the office building along Florida Avenue will contain retail uses. The base of the building will be notched to allow the public to flow into the plaza, and the first two stories of the building will be pulled back along the western edge to provide a covered walkway to the plaza, the Trail, and New York Avenue.
- h. Metropolitan Branch Trail – Bicycle Path Upgrades. The existing Trail is a recently paved asphalt surface in good condition, but it runs through an abandoned field with rocks and dirt on one side and a chain link fence separating the Trail from the railroad tracks. The Applicant proposed to upgrade the entire portion of the Trail adjacent to the Property and, in addition, to provide a continuous concrete wall base with decorative metal fence along a significant portion of the Trail adjacent to the PUD. The Trail upgrades will facilitate the pedestrian and cyclist connection to the PUD and the streets. Other upgrades will include the planting of trees and other landscaping that will wind through a new gentle curve created in the Trail. The north section of the office building base will have smaller scale bay window expressions to make riders' experience more interesting.
- i. Metropolitan Branch Trail – Pedestrian Connection to the Metrorail Station. In order to encourage a separation of bicycle and pedestrian traffic, special paving will be installed along the Trail, from the south property line to the MBT Atrium.

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The path will be designated specifically for people walking from the Metrorail Station to the PUD or through the PUD to the streets beyond.

- j. Metropolitan Branch Trail Atrium – Connection from Trail to City. A significant feature of the PUD is a three-story atrium that will function as a connector between the Trail and the plaza, and will serve as a special place dedicated to pedestrians and urban cyclists. The MBT Atrium will have space designated for information about the trail and surrounding neighborhoods, station maps, an automatic bike tire pump, drinking fountain, plants, and bicycle racks. An oversized elevator and stair with a bike channel will allow cyclists and pedestrians to conveniently move from the Trail to the plaza and to the streets beyond.
- k. The Plaza – Destination and Connection. The stair from New York Avenue, the generous sidewalks, retail space along Florida Avenue, and the MBT Atrium connection from the Trail will all lead to the plaza. The plaza will have benches throughout so pedestrians and occupants of the project can enjoy the plaza space. Public access to the plaza from the New York Avenue stair will be permitted daily from 7:00 a.m. to 7:00 p.m., and from the Trail from 6:00 a.m. to 9:00 p.m.
- l. Sustainable Design. The project will include a number of sustainable design features concentrated on elements that will reduce or eliminate storm water discharge into the District's combined sewer system, including a planted green roof on the residential/hotel building; high reflectivity, low "heat island effect" sustainable roof material design on the office building; rain-water harvesting from the office building roof, which will capture rain water in cisterns for re-use in irrigation, window washing, and other uses, in lieu of potable water; Filterra stormwater bioretention filtration system at catch basins around the perimeter of the site; and the use of native plant species. Also, the PUD will further environmental objectives by (1) providing reserved parking for a car-share plan (e.g., ZipCar or FlexCar); (2) creating a significant connection to the Metrorail Station and the Metropolitan Branch Trail, thus promoting bicycle and pedestrian activity and reducing the number of vehicular trips; and (3) clearing the Property of the gas station, underground tanks, and contaminated soil within the excavation area.
- m. Employment and Training Opportunities. In order to further the District of Columbia's policies relating to the creation of employment opportunities, the Applicant entered into a First Source Agreement with the Department of Employment Services ensuring cooperation with the Department for employee recruitment for jobs created by the PUD with the objective that at least 51 percent of the employees hired in connection with the development of the project will be District of Columbia residents.

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- n. Monetary Contributions. As part of the amenities and benefits package offered in connection with the application, the Applicant committed \$100,000 to assist the following neighborhood programs and initiatives:
- (i) \$50,000 contribution to the District of Columbia Commission on the Arts and Humanities for the arts-related project for the Florida Avenue underpass.
  - (ii) \$25,000 contribution to City Year to cover the five-year operating costs for the Young Heroes Program.
  - (iii) \$10,000 contribution to Emery Elementary School Student Activity Fund for field trips, educational celebrations, audio/visual upgrades, and technology upgrades.
  - (iv) \$10,000 contribution to the Harry Thomas Community Service Center for the purchase and installation of a scoreboard.
  - (v) \$5,000 contribution to North Capitol Main Street, Inc. for the development of a database of the commercial/retail properties in the organization's service area.

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

27. The project is consistent with major themes of the Comprehensive Plan, as follows:
- a. Stabilize and improve the District's neighborhoods. The PUD will add office, residential, hotel, and retail uses as well as significant open space at the southeastern end of the New York Avenue Development Opportunity Area identified in the Comprehensive Plan.
  - b. Increase quantity and quality of employment opportunities. The Applicant estimated that 2,390 permanent office and hotel jobs will be created by the PUD.
  - c. Respect and improve the physical character of the area. The PUD will include active retail, residential, hotel, and office uses that will enhance the streetscape.
  - d. Ensure community input. The project was reviewed by and supported by ANC 5C. Additionally, the Applicant met with the Bloomingdale Civic Association, the Bates Area Civic Association, North Capitol Main Street, Inc., the Eckington Civic Association, and the Edgewood Civic Association to inform the community about the project.

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- e. Reaffirm and strengthen District's role as an economic hub. The Applicant estimated that approximately 2,400 jobs, 370 residents, and \$10 million in taxes will be generated each year as a result of the project.
- f. Enhance public safety. The development of the PUD site and the improvements to the Trail will enhance the safety of the Trail and the walk to the Metrorail Station, and increase the "eyes on street" at the currently vacant site.
- g. Provide for diversity and overall social responsibility. Eight percent of the residential gross floor area will be devoted to affordable housing.
28. The PUD is not inconsistent with the elements and policies of the Comprehensive Plan, as follows:
- a. Chapter 2, the Economic Development Element, supports job development in targeted areas outside of downtown. Section 206.1 states: *The economic development outside the Central Employment Area objective is to create and expand economic activity and employment centers in target areas outside the Central Employment Area.* The Applicant estimated that the \$290 million project will bring 2,390 jobs and 370 residents and will generate approximately \$10 million a year in taxes. The project is located within the New York Avenue Corridor Development Opportunity Area.
- b. Chapter 3, the Housing Element, includes policies in support of construction of housing on the Property, which is near the Metrorail Station and will provide eight percent of its residential development to moderate-income residents. The relevant sections read as follows:
- §302.2(d): *Designate, as residential development opportunity areas, sites where significant housing development can appropriately occur and encourage multi-unit housing development near selected Metrorail stations, at locations adjacent to Downtown, and adjacent to proposed employment centers and office areas;*
  - §302.2(e): *Encourage housing on suitably located public or private properties that are vacant, surplus, underutilized or unused... with particular emphasis upon the needs of low- and moderate-income residents; and*
  - §303.3(d): *Provide zoning incentives, as appropriate, to developers prepared to build low- and moderate-income housing, such as permitting additional densities in exchange for incorporating low- and moderate-income housing in development projects; tie provision of housing into large-scale commercial developments where zoning benefits are sought;*

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*and give zoning preferences to mixed-use sites that include housing near appropriate Metrorail.*

- c. Chapter 5, the Transportation Element, includes the following objective in support of denser housing and mixed-use development:

§ 502.1(a): *Support land use arrangements that simplify and economize transportation services, including mixed-use zones that permit the co-development of residential and nonresidential uses to promote higher density residential development at strategic locations, particularly near appropriate Metrorail stations.*

The PUD will promote higher density mixed-use development at a strategic location near a major entrance to the District, two blocks from Metrorail, and adjacent to major cross-town bus lines.

- d. Chapter 11, the Land Use Element, encourages a substantial amount of new housing, primarily near Metrorail Stations. Section 1134 states: *The objectives for Metrorail station area development are to concentrate planning and development attention on Metrorail station areas which offer opportunities for redevelopment and new growth, particularly in those station areas that have large amounts of vacant or poorly utilized land, and to maximize development where possible, thus promoting increased ridership for the transit system, assisting the District to perform its critical role as the urban center for the region, providing substantially increased amount of housing and jobs, and generally enhancing the District's economic development efforts.*
- e. Chapter 16, the Ward 5 Element, contains many policies, objectives, and action statements that support the proposed project. For example, § 1605.1(a) of the Ward 5 Objectives for Economic Development reads: *Enhance and expand the ward's economic activity and employment centers, particularly in the underused industrial and commercial areas.* The Property is underused, was industrially zoned at the time of the Comprehensive Plan's adoption, and has since been rezoned to a commercial category.

Also, § 1608.1(c) of the Ward 5 Objectives for Housing states: *Provide incentives for housing at desired locations such as the Fort Totten Metrorail Station Special Treatment Area and the Rhode Island Avenue Metrorail area.* The PUD will provide housing within one block of the New York Avenue Metrorail Station. Although the station did not exist when the Comprehensive Plan was adopted, the project's proximity to the station will further the objective of the Comprehensive Plan.

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Finally, § 1620.1(a) reads: *Promote a physical environment that upgrades the ward's aesthetic qualities, enhances neighborhood stability, emphasizes neighborhood identity and function, and physically enhances the gateways and entrances into the City.* The proposed project will develop a major architectural composition at the northeastern entrance to central Washington. Its sleek horizontal lines and semi-transparent oblique angles on New York Avenue will address the relatively high-speed context of the transportation corridor. Its red-brick elements will add color and will tie in with both the nearby industrial and residential uses. The plaza will add a significant publicly accessible space for a newly developing part of the city, and will be an attractive destination for users of the Metropolitan Branch Trail.

### **Office of Planning Reports**

29. By report dated November 20, 2006, as supplemented by the report dated December 11, 2006, OP recommended approval of the PUD application. This recommendation was based on its findings that the project would enhance revitalization efforts at the edge of the central business district; strengthen and expand the central area's office uses; provide both permanent housing and transient accommodations; generate more tax revenue for the District than do the current uses of the PUD site; help overall traffic flow in NoMA by providing a new traffic signal at Florida Avenue and 2<sup>nd</sup> Street; improve the environment for pedestrian and bicyclists on the site's perimeter and interior; provide employment opportunities and a First Source Employment Agreement with the objective that at least 51 percent of new employees hired in connection with the development will be District residents; create affordable housing without the expenditure of public funds; and that the project would be consistent with the Comprehensive Plan and with the final draft NoMA plan.

### **Other Government Agency Reports**

30. By report dated November 28, 2006, the District Department of Transportation ("DDOT") concluded that it had no objections to the PUD, and the close proximity of the Metrorail station and the Metropolitan Branch Trail would help reduce the demand for private automobile use. DDOT's findings were based on the implementation of the following provisions listed in its report:
- a. The single loading dock originally proposed was revised to incorporate two loading docks that will provide additional access points, with right-in and right-out egress movements exclusively. This revision mitigated safety concerns and issues regarding left turns onto Florida Avenue at 2<sup>nd</sup> Street, N.E. The Applicant should meet DDOT standards regarding the distance for the placement of driveways in relation to an intersection; the current standards stipulate that no

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driveway should be closer than 60 feet to a street intersection, as measured from the intersection of the curb lines extended.

- b. The Metropolitan Branch Trail will run along the eastern edge of the Property, with direct access to and from the proposed project. The Applicant should provide upgrades to the Trail and create a connection for pedestrians and bicyclists to Florida Avenue and the New York Avenue Metrorail Station.
  - c. The upgrades to the trail included, but were not limited to, an enclosed atrium/rest area with a stair and elevator, seating, bike parking, drinking fountains, restroom access, signage, an information kiosk, and landscape screening. DDOT staff worked closely with the Applicant to devise a design that would optimize the use of the area for trail users and for tenants of the development.
  - d. Several Transportation Demand Management measures were described in detail on pages 46-50 of the Transportation Impact Study. DDOT strongly urged that the Commission make the recommendations requirements of any Order approving the project. In addition, DDOT recommended that the Applicant be required to prepare a comprehensive report on the effectiveness of the Transportation Demand Management measures and that the report be reviewed by DDOT annually to evaluate their effectiveness.
  - e. The Applicant agreed to pay for the design and installation of a traffic signal at the intersection of Florida Avenue and 2<sup>nd</sup> Street, N.E.
31. The Commission finds that the plans submitted by the Applicant meet the findings and recommendations of DDOT set forth above. As to DDOT's recommendation that the Applicant submit annual evaluations of the Transportation Demand Management measures, the Commission finds that DDOT has not presented standards against which an annual report would be measured, and the requirement for an annual report would in and of itself not be useful. Therefore, a report will not be required.

#### **Response to Post-hearing Information Requested by the Commission**

32. As set forth in Findings No. 9 and 10, the Applicant submitted information in response to requests made by the Commission at the hearing. The Commission finds that the information contained in that response adequately addressed to the Commission's concerns, in that more affordable housing will be provided without reducing any other benefit or amenity previously proffered, the size of the planned hotel sign was reduced to make the sign less noticeable, and the proposed height of the wall along New York Avenue was lowered so persons can view the plaza below.

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### NCPC Comments

33. As indicated at the outset of this Order, NCPC expressed concern about several aspects of this project. NCPC questioned the use of the elevated approach to the New York Avenue Viaduct as the measuring point of height, concluding that this allowed the project's actual height to exceed that allowed under the Height Act. In addition, NCPC indicated the height of the residential building raises concerns for the security of the Bureau of Alcohol, Tobacco, Firearms, and Explosives Headquarters Building. Finally, NCPC expressed the belief that locating the entrances to the parking garage and loading docks immediately adjacent to the intersection of New York and Florida Avenues will adversely affect that gateway and diminish the opportunities for locating significant commemorative works in the area.
34. By letter dated January 25, 2007, the Applicant submitted a letter and drawings that the Commission believes adequately address the concerns expressed by NCPC.

### 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 that exceed or are less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or 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. The development of the PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, including its approval pursuant to § 2405.3, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The mix of residential, hotel, office, and retail uses is appropriate for the

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- Property. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable.
6. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
  7. The project benefits and amenities are reasonable for the development proposed on the PUD Site.
  8. Approval of the PUD is appropriate, because the proposed development is consistent with the present character of the area.
  9. Approval of the PUD is not inconsistent with the Comprehensive Plan.
  10. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2001) to give great weight to the issues and concerns of the affected ANC. The Commission has carefully considered ANC 5C's recommendation for approval and concurs in its recommendation.
  11. The application for a PUD 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.
  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 consolidated review of a planned unit development for the site located at the northeast corner of the intersection of Florida and New York Avenues, N.E., that is, Lots 23, 811, 812, and 813 in Square 3584. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by Gensler and SK&I Architects, entitled "MRP Realty Washington Gateway," dated November 9, 2006, marked as Exhibit No. 29; as modified by the plans dated November 30, 2006, marked as Exhibit No. 33; the plans dated December 4, 2006, marked as Exhibit No. 38; and the plans dated January 25, 2007, marked as Exhibit No. 44 (collectively, the "Plans"), as modified by the guidelines, conditions, and standards herein.
2. The project shall be a mixed-use development constructed to a maximum height of 130 feet and a density of 7.06 FAR. Approximately 229,690 square feet of gross floor area shall be devoted to residential use, approximately 120,443 square feet of gross floor area

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shall be devoted to hotel use, and approximately 601,896 square feet shall be devoted to office use. The project shall have approximately 7,000 square feet of retail space.

3. Of the residential gross floor area for the project, a minimum of approximately 18,375 square feet, or eight percent of the residential gross floor area, shall be devoted to affordable housing for residents with incomes no greater than 80 percent of the Area Median Income. The construction and distribution of the affordable units, the affordability control period, and the method of selecting the occupants/purchasers of the units shall be in accordance with the Planned Unit Development Inclusionary Housing Commitment Standards dated December 4, 2006, marked as Exhibit No. 38.
4. The PUD shall include a minimum parking ratio of 0.6 space per dwelling unit for the residential use; 0.25 space per guest room for the hotel use plus one parking space for each 300 square feet of floor area in either the largest function room or largest exhibit space, whichever is greater; and one parking space for each 1,800 square feet of gross floor area of office use. At least two of the parking spaces shall be reserved for use by a car-sharing service.
5. The Applicant shall design and implement a Transportation Management Plan that includes the strategies set forth on pages 46 through 50 of the Transportation Impact Study by Wells & Associates, LLC, dated November 9, 2006, marked as Exhibit No. 29.
6. The Applicant, at its sole expense, shall cause the design and installation of a traffic signal at the intersection of Florida Avenue and 2<sup>nd</sup> Street, N.E., in accordance with DDOT standards and guidelines. The traffic signal shall be installed prior to the issuance of the first certificate of occupancy for the PUD.
7. The Applicant shall enter into an agreement with DDOT for the installation and maintenance of the improvements to the Metropolitan Branch Trail, along the eastern boundary of the PUD site. The improvements shall include, but not be limited to, the enclosed atrium/rest area with a stair, elevator, seating, bike parking, drinking fountains, restroom access, signage, an information kiosk, and landscaping.
8. Public access to the project to and from New York Avenue and the Metropolitan Branch Trail shall be permitted in accordance with the following daily schedule:
  - a. The New York Avenue staircase shall be open from 7:00 a.m. to 7:00 p.m.
  - b. The Metropolitan Branch Trail Atrium and the stairs and elevators to the plaza shall be open from 6:00 a.m. to 9:00 p.m.

Additionally, the PUD shall include at least one public restroom for use during normal retail hours.

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9. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of \$50,000 to the D.C. Commission on the Arts and Humanities to support the Florida Avenue Underpass Project.
10. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of \$25,000 to City Year for the five-year operating costs for the Young Heroes Program.
11. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of \$10,000 to the Student Activity Fund for Emery Elementary School to fund student field trips, educational celebrations, audio/visual upgrades, and technology upgrades.
12. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of \$10,000 to the Harry Thomas Community Service Center for the purchase and installation of a scoreboard.
13. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of \$5,000 to North Capitol Main Street, Inc. ("NCMS") for the development of a database of the commercial/retail properties located within the NCMS service area.
14. The Applicant shall have flexibility with the design of the PUD as follows:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
  - b. 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;
  - c. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia Construction Codes or that are otherwise necessary to obtain a final building permit or any other applicable approvals;
  - d. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the minimum specified in Condition No. 4; and

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- e. To eliminate the interior drive to the south section of the office building should operational and/or security needs require.
15. The Applicant shall abide by the terms of the First Source Employment Agreement entered into with the Department of Employment in order to achieve the goal of utilizing District of Columbia residents for at least 51 percent of the jobs created by the PUD.
16. 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 owner(s) and the District of Columbia, that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). The covenant shall bind the Applicant and all successors in title to construct on and use the PUD Site in accordance with this Order or amendment thereof by the Zoning Commission.
17. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
18. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1.
19. 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 prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On December 11, 2006, the Zoning Commission **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on February 12, 2007, by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve).

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In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on JUN 29 2007.

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