BOARD FOR
THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF PUBLIC INTEREST

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Northwest			
1106 Allison Street	76	2917	4
1205 Clifton Street	40	2865	1
1405R Crittenden Street-Rear	823	2706	4
412 Delafield Place	175	3251	4
1123 Fairmont Street-Rear	46	2859	1
617 Farragut Street	106	3212	4
1304 Farragut Street	41	2807	4
519 Florida Avenue	35	3093	1
521 Florida Avenue	26	3093	1
3200 Georgia Avenue	909	2892	1
3203 Georgia Avenue	809	3042	1
5627-5631 Georgia Avenue	039	2991	4
5806 Georgia Avenue-Rear	841	2937	4
7700 Georgia Avenue	21	2957	4
4820 Iowa Avenue	30	2709	4
425 Irving Street-Rear	64	3049	4
535 Irving Street	31	3048	1
535 Irving Street-Rear	31	3048	1
470 K Street	44	516	2
1217 Kenyon Street	117	2844	1
1331 Kenyon Street	47	2843	1
503 Longfellow Street	50	3206	4
718 Marietta Place	43	3155	4
4001 Marlboro Place	48	3313	4
1021 Monroe Street	74	2832	1
1824 Monroe Street	813	2614	1
1342 Montague Street	46	2796	4
1342 Montague Street-Rear	46	2796	4
3500 Nebraska Avenue	24	1599	3
3526 New Hampshire Ave	91	2614	1
1424 North Capitol Street	10	616	5
1424 North Capitol Street-Rear	10	616	5
4922 North Capitol Street	67	3401	4
505 O Street	36	479	5
507 O Street	37	479	5
509 O Street	2001/2002	479	5
820 Otis Place	119	2895	1

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Northwest (cont'd)			
88-881/2 P Street	825	616	2
219 P Street	833	475	5
3245 Patterson Street-Rear	25	2021	4
1000 Park Road	39	2841	1
1424 Parkwood Place	46	2688	1
936 Quincy Street	92	2901	4
50 R Street-Rear	31	3101	5
403 R Street	801	0507	5
501 Rhode Island Avenue	33	475S	2
1000 Rhode Island Avenue	19	337	2
1427 Rhode Island Avenue	27	210	2
1429 Rhode Island Avenue	28	210	2
735 Rock Creek Church Road-Rear	58	3130	4
1355 Shepherd Street	45	2823	4
1421 T Street-Rear	845	205	1
533 U Street	38	3079	2
901-01 U Street	88	360	1
903 U Street, NW	89	360	1
131 Varnum Street	803	3321	4
911 W Street	067	0357	1
1305 Wallach Place	169	237	1
3224 Warder Street-Rear	13	3046	1
223 Webster Street	820	3319	4
1831 Wiltberger Street	849	9441	1
1227 1st Street	9	618	5
1202 3rd Street	837	523	2
5311 3rd Street-Rear	6	3328	4
1716 4th Street	803	507	5
1809 4th Street	17	3095	1
1416 5th Street	26	479	2
3927 5th Street	78	3237	4
4109 5th Street	47	3241	4
1104 6th Street	859	449	2
1134 6th Street	30	449	2
1539 7th Street	179	445	2
1301 9th Street	801	399	2
1303 9th Street	62	399	2
1305 9th Street	63	399	2
1307 9th Street	803	399	2
1309 9th Street	804	399	2
1503 9th Street	29	397	2
4428 9th Street-Rear (Addition)	34	3020	4
1513-1515 11th Street	815	337	2
1513-1515 11th Street-(Rear)	815	337	2

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Northwest (cont'd)			
1725 11th Street	805	0335	2
2219 13th Street	86	271	1
3637 13th Street	145	2829	1
5008 13th Street	53	2806	4
5008 13th Street-Rear	53	2806	4
3564 14th Street	24	2688	1
5310 14th Street	13	2716	4
3222 19th Street-Rear	817	2604	1
1617 21st Street	136	93	2

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Northeast			
3701 Benning Road	807	5044	5
2301 Bladensburg Road	41	4359	5
207 C Street-Rear	847	757	6
1848 Central Place	39	4047	5
3042 Clinton Street	826	4319	5
1820 Corcoran Street	18	4049	5
600 Division Avenue	13	5196	7
1717 E Street	143	4546	6
1721 E Street	144	4546	6
26 Florida Avenue	71	3516	5
629 Florida Avenue	176	855	6
5900 Foote Street,	805	5256	7
1229 Franklin Street	20	336	5
1653 Gales Street	182	4540	6
1655 Gales Street	183	4540	6
914 H Street	63	933	6
303 K Street	804	775	6
1118 Montello Avenue	71	4070	5
1125 Morse Street	140	4070	5
1136 Morse Street	055	4065	5
1916 Newton Street	118	4202	5
2422 Otis Street-Rear	48	4298	1
52 Q Street	105	3520	5
58 Q Street	102	3250	5
50 RI Avenue-Rear	3	3508	5
1515 Rhode Island Avenue	43	4131	5
1515 Rhode Island Avenue-Rear	43	4131	5

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Northeast			
115 Riggs Road	85	3701	5
4310 Sheriff Road	819	5097	7
4326 Sheriff Road	831	5097	7
1741 Trinidad Avenue	26	4082	5
142 Webster Street	42	3668	4
1020 3rd Street	34	749	6
1022 3rd Street	33	749	6
2407 3rd Street	28	3555	5
608 8th Street	45	891	6
914 9th Street	45	910	6
4100 13th Street	24	Par 146	5
3122 16th Street	39	4014	5
4413 16th Street	5	4617	5
1234 18th Place	811	4445	5
1236 18th Place	811	4445	5
3712 24th Street	42	4242	5
913 43rd Place	47	5096	7
1044 44th Street	70	5125	7
919 47th Street	119	5151	7
945 52nd Street	803	5199	7
234 56th Street	144	5250	7
306 57th Place	84	5247	7
310 57th Place	84	5247	7
314 57th Place	87	5247	7

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Southeast			
4427 A Street	107	5350	7
3608 Alabama Avenue	823	5668	7
27 Atlantic Street	54	6170	8
5050 B Street	28	5326	7
5034 Bass Place	25	5325	7
4926 Call Place	33	5336	7
4030 Call Place	32	5336	7
5000 Call Place	35	5323	7
420 Chesapeake Street-Rear	808	6165	8
422 Chesapeake Street-Rear	809	6165	8
1720 D Street	87	1100	6
1229 E Street	816	1019	6
3326 Ely Place	807	5444	6
1254 Half Street	99	0701	6
1260 Half Street	144	0701	6

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Southeast (cont'd)			
1415 Morris Road	50	5809	6
1348 Penn. Avenue	7	1044	6
2329 Q Street	56	5587	6
1219 Sumner Road	979	5865	8
1242 W Street	99	5782	8
4001 4th Street	39	6167	8
4005 4th Street	40	6167	8
1012 7th Street	11	906	6
1014 7th Street	10	906	6
102 9th Street	801	0943	6
2105 13th Street	681	5782	6
3403 15th Street	28	5917	8
333 16th Street	82	1074	6
20 53rd Place	884	5284	7

BUILDINGS CONDEMNED	LOT	SQUARE	WD
Southwest			
71 Forrester Street	67	6240	8
73 Forrester Street	68	6240	8

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST

The Director of the Department of Consumer and Regulatory Affairs pursuant to D.C. Law 2-144, effective March 3, 1979-, **"The Historic Landmark and District Protection Act of 1978"** hereby gives notice that the addresses listed below, as requested permission to demolish, altar, sub-divide or erect new structures at the following location(s):

Application Date	Address	Lot	Square	Use
9/11/03	3124 Q Street, NW	76	1270	Temp. Retaining Wall
	3340 "N" Street, NW	79	1220	Concept
	3328 "O" Street, NW	141	1229	Roof & Gutter
	3328 "O" Street, NW	141	1229	Concept
	2619 "O" Street, NW	850	1262	Replace foot bridge
9/12/03	3315 Caddy's Alley, NW	57	1184	Concept
	1645 Wisconsin Avenue, NW	104	1280	Sign
9/16/03	2619 Garfield Street, NW	27	2107	Replace sun deck
	122 "F" Street, NW	21	736	Deck fence/SFD
9/22/03	3337 "P" Street, NW	222	1254	Add/SFD
	549 11th Street, SE	800	973	Repair fence/SFD
	3140 Dumbarton Street, NW	812	1232	Guard rail/SFD
	603 Massachusetts Avenue, NW	808	866	Windows/SFD

9/24/03	1732 Connecticut Avenue, NW	48	92	Rev. canopy bay window
	1508 "U" Street, NW	87	190	Add
	3415 Main Avenue, NW	40	1939	Concept
	3027 "Q" Street, NW	262	1282	Roof
9/25/03	2842 28th Street, NW	77	2111	Concept
	1643 Wisconsin Avenue, NW	821	1280	Sign
	901 "U" Street, NW	82, 83 & 87	360	Rehab.
	1607 Monroe Street, NW	754	2610	Driveway

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
10/01/03	113 2nd Street, NE	25	758	Add
	1227 Mapleview Avenue, SE	905	5802	Raze
	1264 Wisconsin Avenue, NW	836	1218	Roof
10/02/03	1324 Massachusetts Avenue, SE	90	1036	Fence
	6919 6th Street, NW	19 & 811	3191	Add/SFD
	1264 Wisconsin Avenue, NW	836	1218	Façade Restaurant
	3138 P Street, NW	76	1256	Rear deck/patio
10/03/03	1724 Connecticut Avenue, NW	31	91	Sidewalk Café
	717 & 719 H Street, NW	812	428	Sidewalk Café
10/07/03	800 4th Street, SW	106	540	A/R SFD
	423 12th Street, SE	62	992	Concept
10/08/03	603 F Street, NE	118	861	Patio/parking

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
10/10/03	3700 "O" Street, NW	1	1321	Chiller plant
	2908 "N" Street, NW	19	1211	Foundation
	2912 "N" Street, NW	18	1211	Brick wall
10/14/03	3104 Q Street, NW	66	1270	Fence
	3032 Dent Place, NW	227	1292	Fence
	1614 34th Street, NW	204	1277	S/F Add
	1322 30th Street, NW	833	1242	Fence
10/15/03	1324 30th Street, NW	834	1242	Fence

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
10/23/03	1245 Independence Avenue, SE	149	1015	Concept
	1418 Columbia Road, NW	75	366	SFD Add
	2800 Pennsylvania Avenue, NW	30	1195	Windows
	2501 Massachusetts Avenue, NW	9	2505	Concept
	1908 Belmont Road, NW	207	2539	Concept
	3400 Ordway Street, NW	816	2076	Concept
	919 F Street, NW	64	376	Concept
	919 – 921 U Street, NW	98	360	Concept
10/27/03	1939 19th Street, NW	801/803	305	Concept
10/28/03	3340 N Street, NW	79	1220	SFD Emery roof

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
10/31/03	1054 & 1056 Thomas Jefferson Street, NW	73	1190	
	2120 "S" Street, NW	812	2515	Add/SFD
	1600 14th Street, NW	111/800/801	208	Concept
11/5/03	2803 Dumbarton Street, NW	868	1240	Fence

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
11/6/03	810 Maryland Avenue, NE	3	915	Window Doors
	1440 New York Avenue, NW	5	223	Building Entrance
11/7/03	3032 "O" Street, NW	117	1242	Railings
	1000 "P" Street, NW	21	338	Windows SFD
11/10/03	3210 Rodman Street, NW	51	2062	SFD Add & A/R
11/12/03	2647 Woodley Road, NW	2	2108	Concept
	3210 17th Street, NW	63	2607	SFD Rear 3-Story Porch
	2938 Macomb Street, NW	825	208	
	1248 31st Street, NW	844	1208	SFD
	3600 Prospect Street, NW	838	1202	SFD Int./Roof
	1740 Wisconsin Avenue, NW	326	1298	

11/13/03	1363 Wisconsin Avenue, NW	816	1234	Awning
	901 30th Street, NW	82	1171	Concept
	1525 33rd Street, NW	211	1255	SFD Add
	3700 "O" Street, NW	1	1321	Concept
	3020 "O" Street, NW	123	1242	Porch Enclosure
	3018 "O" Street, NW	124	1242	Porch Enclosure
	2611 Dumbarton Street, NW	806	1238	SFD Add/Fence
11/14/03	2819 "P" Street, NW	290	1267	Concept
	3320 Caddy's Alley, NW	56	1184	Doors
	816 Potomac Avenue, SE	823	930	Raze
	3241 "M" Street, NW	98	1207	Sign

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST

Forwarded for your information is a weekly listing of **raze permit application** filed with the Permit Service Center of the Building and Land Regulation Administration, requesting a permit to raze listed structures with the District of Columbia.

Application Date	Address	Lot	Square	Use
10/9/03	1044 48th Place, NE	35	5153	2-Story SFD
	153 & 157 Danbury Street, SW	21	6201	2-Story Apartments

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
9/11/03	4835 Hutchins Place, NW	89	1387	2-Story SFD
9/22/03	5035 Klingle Street, NW	873	1435	1-Story SFD w/bsmt.
9/23/03	1208 &10 13th Street, NW	825	245	2-Story retail
	1214 13th Street, NW	827	245	2-Story retail
	1220 13th Street, NW	834	245	2-Story retail
	220 "L" Street, NW	78	748	2-Story Comm.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
10/30/03	2970 University Terrace, NW	11	1426	1-Story SFD
	434 Condon Terrace, NW	818	6154	2-Story SFD
	436 Condon Terrace, NW	58	6154	2-Story Apt. Bldg.
	937 F Street, NW/2nd Submission	74	376	3-Story Comm. Bldg.
	939 F Street, NW	74	376	3-Story Comm. Bldg.
	941 F Street, NW	74	376	3-Story Comm. Bldg.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

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Application Date	Address	Lot	Square	Use
11/3/03	307 "H" Street, NW	801	528	2-Story Community Building

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST

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Application Date	Address	Lot	Square	Use
11/14/03	22 & 26 56th Place, SE	178 – 180	5280	2-Story SFD
	30 & 34 56th Place, SE	175 - 177	5280	2-Story SFD
	38 & 42 56th Place, SE	172 – 174	5280	2-Story SFD
	46 & 50 56th Place, SE	169 – 171	5280	2-Story SFD
	100 & 104 56th Place, SE	66 – 68	5281	2-Story SFD
	108 & 112 56th Place, SE	63 – 65	5281	2-Story SFD
	116 & 120 56th Place, SE	60 – 62	5281	2-Story SFD
	124 & 128 56th Place, SE	57 – 59	5281	2-Story SFD
	132 & 136 56th Place, SE	54 – 56	5281	2-Story SFD
	140 & 144 56th Place, SE	51 – 53	5281	2-Story SFD
	148 & 152 56th Place, SE	48 – 50	5281	2-Story SFD
	156 56th Place, SE	45 – 47	5281	2-Story SFD
	164 & 168 56th Place, SE	42 – 44	5281	2-Story SFD
	172 & 176 56TH Place, SE	39 – 41	5281	2-Story SFD

11/14/03	22 & 26 57th Street, SE	154 – 156	5280	2-Story SFD
	30 & 34 57th Street, SE	151 – 153	5280	2-Story SFD
	38 & 42 57th Street, SE	148 – 150	5280	2-Story SFD
	45 & 49 57th Street, SE	157 – 159	5280	2-Story SFD
	46 & 50 57th Street, SE	145 – 147	5280	2-Story SFD
	100 & 104 57th Street, SE	142 - 144	5280	2-Story SFD
	101 & 105 57th Street, SE	78 – 80	5281	2-Story SFD
	108 & 112 57th Street, SE	139 -141	5280	2-Story SFD
	109 & 113 57th Street, SE	81 -83	5281	2-Story SFD
	116 & 120 57th Street, SE	136 – 138	5280	2-Story SFD
	117 & 121 57th Street, SE	84 – 86	5281	2-Story SFD
	124 & 128 57th Street, SE	133 – 135	5280	2-Story SFD
	125 & 129 57th Street, SE	87 – 89	5281	2-Story SFD
	132 & 136 57th Street, SE	130 – 132	5280	2-Story SFD
	133 & 137 57th Street, SE	90 -92	5281	2-Story SFD
	140 & 144 57th Street, SE	127 – 129	5280	2-Story SFD
	141 & 145 57th Street, SE	135 – 137	5281	2-Story SFD
	148 & 152 57th Street, SE	124 – 126	5280	2-Story SFD
	156 & 160 57th Street, SE	121 – 123	5280	2-Story SFD
	164 & 168 57th Street, SE	118 – 120	5280	2-Story SFD
	5650 & 5654 "A" Street, SE	166 – 168	5280	2-Story SFD

11/14/03	5651 & 5655 "A" Street, SE	69 – 71	5281	2-Story SFD
	5658 & 5662 "A" Street, SE	163 - 165	5280	2-Story SFD
	5659 & 5670 "A" Street, SE	161 – 162	5280	2-Story SFD
	5667 & 5671 "A" Street, SE	75 – 77	5281	2-Story SFD
	5650 & 5654 Central Avenue, SE	36 – 38	5281	2-Story SFD
	5705 & 5701 East Capitol Street, SE	99 & 101	5280	2-Story SFD
	5713 & 5709 East Capitol Street, SE	102 -104	5280	2-Story SFD
	5725 East Capitol Street, SE	105	5280	2-Story SFD
	5731 & 5735 East Capitol Street, SE	106 -108	5280	2-Story SFD
	5739 & 5743 East Capitol Street, SE	109 – 111	5280	2-Story SFD
	5747 & 5751 East Capitol Street, SE	112 – 114	5280	2-Story SFD

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 sixteen (16) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code §1-309.06(d)(2);2001 Ed.

VACANT: **1C05**

Petition Circulation Period: **Monday, November 10, 2003 thru Monday, December 1, 2003**
Petition Challenge Period: **Thursday, December 4, 2003 thru Wednesday, December 10, 2003**

VACANT: **7D02, 7D07**

Petition Circulation Period: **Wednesday, November 12, 2003 thru Tuesday, December 2, 2003**
Petition Challenge Period: **Friday, December 5, 2003 thru Thursday, December 11, 2003**

VACANT: **3D07, 3D08, 3E05**
5C10, 5C11
6B11
8B03, 8C05, 8C06

Petition Circulation Period: **Thursday, November 13, 2003 thru Wednesday, December 3, 2003**
Petition Challenge Period: **Monday, December 8, 2003 thru Friday, December 12, 2003**

VACANT: **3D09**

Petition Circulation Period: **Monday, November 17, 2003 thru Monday, December 8, 2003**
Petition Challenge Period: **Thursday, December 11, 2003 thru Wednesday, December 17, 2003**

VACANT: **2A06**
4A05
8E01

Petition Circulation Period: **Tuesday, November 18, 2003 thru Monday, December 8, 2003**
Petition Challenge Period: **Thursday, December 11, 2003 thru Wednesday, December 17, 2003**

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 - 4th Street, NW, Room 250N

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

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS

Certification of Filling a Vacancy
In Advisory Neighborhood Commission

Pursuant to D.C. Code section §1-309.06 (d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections and Ethics ("Board") from the affected Advisory Neighborhood Commission, the Board hereby certifies that a vacancy has been filled in the following single member district by the individual listed below:

Myron Silverstein
Single Member District 2B06

DISTRICT OF COLUMBIA REGISTER NOV 2 8 2003

Department of Housing and Community Development

Notice of Availability of Public Document for Review and Comment

November 28, 2003 to December 15, 2003

"District of Columbia Department of Housing and Community Development Consolidated Annual Performance and Evaluation Report (CAPER) For Fiscal Year 2003"

Stanley Jackson, Director, Department of Housing and Community Development (DHCD), announces the availability for public review and comment on the ***"District of Columbia Department of Housing and Community Development Consolidated Annual Performance and Evaluation Report (CAPER) for Fiscal Year 2003."*** The CAPER provides information on DHCD's review and evaluation of its performance in achieving the objectives stated in its annual Action Plan for Fiscal Year 2003 (October 1, 2002 to September 30, 2003). The FY 2003 Action Plan detailed activities to be carried out by DHCD under the following federal entitlement programs from the U.S. Department of Housing and Urban Development (HUD):

- Community Development Block Grant Program
- HOME Investment Partnerships Program
- Emergency Shelter Grant Program
- Housing Opportunities for Persons with AIDS Program

The CAPER report is being made available for a 15-day public comment period prior to its submission to HUD on or before December 31, 2003. The CAPER will be distributed to stakeholder organizations. It will also be available for review at the DHCD (8th floor), all public library branches, all Advisory Neighborhood Commission offices, and at the following community based organizations:

- Housing Counseling Services, Inc.
  2430 Ontario Road, NW,
  (202) 667-7006
- Latino Economic Development Corporation
  2316 - 18th Street, NW
  (202) 588-5102
- University Legal Services
  300 I Street, NE
  (202) 547-4747
- Lydia's House
  4101 Martin Luther King Jr., Avenue, SW
  (202) 563-7629 ext. 202
- Marshall Heights Community Dev. Corp.
  3939 Benning Road, NE,
  (202) 396-1200
- Central American Resources Center
  1459 Columbia Road, N.W.
  (202) 328-9799
- University Legal Services
  3220 Pennsylvania Avenue, SE, Suite 4
  (202) 645-7175

Written comments may be submitted to: Mr. Stanley Jackson, Director, Department of Housing and Community Development, 801 North Capitol Street, N.E., Washington, D.C., 20002 (fax: 202-442-8391). All comments must be received by **December 15, 2003.** Questions regarding the CAPER may be directed to Kay McGrath, Special Assistant, DHCD, 202-442-7276.

MAYOR'S COMMITTEE ON PERSONS WITH DISABILITIES

2004 MEETING SCHEDULE

January 20, 2004

March 16, 2004

May 18, 2004

July 20, 2004

September 21, 2004

December 14, 2004

Meetings will be held at the Martin Luther King, Jr. Library, 901 G Street, N.W., A-Level, Washington, D.C. from 12:00 p.m. - 2:00 p.m. If there are any changes in the scheduled meeting time, dates, or site, members will be notified.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Executive Office of the Mayor

OFFICE OF PARTNERSHIPS AND GRANTS DEVELOPMENT

FOURTH QUARTER REPORT ON DONATIONS APPROVED BY OPGD FOR FY 2003

Pursuant to Mayor's Order 2002-2 dated January 11, 2002, the Director of the Office of Partnerships and Grants Development (OPGD), in consultation with the Office of the Corporation Counsel's Ethics Counselor, is publishing the District's Fourth Quarter Report on Donations for Fiscal Year 2003. The Order requires the OPGD Director to review all requests by District officials to solicit or accept donations and approve or disapprove such requests as appropriate in accordance with the Rules of Conduct Governing Donations (Mayor's Memorandum 2002-1) and Section 115 of the 2003 D.C. Appropriations Act. This report includes data on all donation requests submitted to the Director for the period beginning July 1, 2003 and ending September 30, 2003. During this period, the OPGD Director approved the acceptance of **$2,089,988** in donations of which **$273,500** represented financial contributions, and **$1,816,488** represented in-kind contributions. Please contact the OPGD Director at (202) 727-8900 for more details on the report.

District Recipient	Donor	Donation Information	Approval Date
Child and Family Services Agency	Freddie Mac Foundation	Financial donation of $12,000 to support the CFSA Annual Family Foster Parents United Back-to-School Picnic.	Authority to accept the donation approved on 9-3-03
Child and Family Services Agency	Beverly Myers	Clothing donation valued at $50 to support children in need.	Authority to accept the donation approved on 8-20-03
Child and Family Services Agency	Jackie Cubero	Five suitcases and one tote bag valued at $25 to support children in transition.	Authority to accept the donation approved on 8-20-03
Child and Family Services Agency	Carrie Collela	Clothing and miscellaneous item donation valued at $300 to support children in need and children in foster care.	Authority to accept the donation approved on 8-25-03
Child and Family Services Agency	Gail P. O'Hannon	Women's clothing donation valued at $350 to support the CFSA donation center.	Authority to accept the donation approved on 8-4-03
Child and Family Services Agency	W.R. Montgomery	Children's clothing and suitcases valued at $200 to support the CFSA donation center.	Authority to accept the donation approved on 9-10-03
Child and Family Services Agency	Kasandra Dodd	Clothing donation valued at $100 to support the CFSA donation center.	Authority to accept the donation approved on 9-5-03
Corporation Counsel	DC Appleseed Center for Law and Justice	Pro-bono legal services valued at $400,000 to challenge the prohibition against the District of Columbia imposing a commuter tax on non-residents who work in the District of Columbia. Services are on-going.	Authority to accept the donation approved on 9-10-03

District Recipient	Donor	Donation Information	Approval Date
Department of Human Services	Assemblies of God	Financial donation of $30,000 to support the Department of Human Services' work in the transformation schools located in wards 7 and 8. The donation supports the departments Adult Basic Education for Lifelong Learning programs.	Authority to accept the donation approved on 7-31-03
Department of Transportation	Smith Property Holding Alban Towers LLC	Financial donation of $30,000 to support street repair costs at 38th st. NW between Garfield and Cathedral.	Authority to accept the donation approved on 9-29-03
Department of Transportation	Downtown Business Improvement District	Financial donation of $50,000 to purchase pedestrian countdown signals in downtown locations.	Authority to accept the donation approved on 9-29-03
Executive Office of the Mayor/Deputy Mayor for Public Safety and Justice	Momentum Solutions	Pro-bono consultation concerning the 911 Project Shield technology upgrades for Homeland Security valued at $750.	Authority to accept the donation approved on 9-30-03
Executive Office of the Mayor/Deputy Mayor for Public Safety and Justice	Northrup Grumman	Pro-bono consultation concerning the 911 Project Shield technology upgrades for Homeland Security valued at $750.	Authority to accept the donation approved on 9-30-03
Executive Office of the Mayor	BB&T ($2,500) and MedStar ($2,500)	Financial donation of $5,000 to support the Health Insurance Portability and Accountability Act (HIPAA) Summit.	Authority to accept the donation approved on 8-28-03
Executive Office of the Mayor	Washington Convention and Tourism Corporation	In-kind donation for the Mayor and staff to attend the American Society of Association Executives conference in Oahu, Hawaii from August 22-26, 2003. Estimated donation is $5,500.	Authority to accept the donation approved on 8-18-03
Executive Office of the Mayor/Neighborhood Action	Calvert Asset Management Company ($1,000), Wachovia Bank ($5,000), and Fannie Mae Foundation ($15,000)	Financial donation of $21,000 to support the Citizens Summit III on November 15, 2003.	Authority to accept the donation approved on 9-30-03
Executive Office of the Mayor/Office of Latino Affairs	Karla Rodas ($200), Haydees Restaurant ($200), and Natty Fernandez ($150)	In-kind donations by Latino artists' and restaurants valued at $550 to support the Latino Cultural Fair and Town Hall Meeting on September 18, 2003.	Authority to accept the donation approved on 8-12-03
Executive Office of the Mayor	Covington and Burling	Pro-bono legal services valued at $16,000 to consult with the Office of Corporation Counsel and Child and Family Service Agency to review governing statutes, judicial decrees, MOUs that establish and define the attorney-client relationship between OCC and CFSA.	Authority to accept the donation approved on 9-30-03

District Recipient	Donor	Donation Information	Approval Date
Executive Office of the Mayor	Downtown Business Improvement District Corporation ($500), Freddie Mac Foundation ($3,000), Double H Housing Corporation ($1,000), ACS State & Local Solutions ($2,500), Pepco ($3,000); **In-kind:** Atlantic Electric Supply Company ($300), Maurice Electric Supply Company ($300), Pepsi-Cola Bottling Company ($50), Horning Brothers ($1,000), Giant Food ($60), Mid City Urban LLC ($610), Package Ice Inc. ($90), Nextel Corporation ($3,000)	In-kind and financial donations valued at ($5,410 and $10,000) respectively from multiple donors to support the national America's Night Out Against Crime, which promotes police-community partnerships, crime, drug and violence prevention, and neighborhood safety.	Authority to accept the donation approved on 9-30-03
Fire and Emergency Management Services	Town Sports International	In-kind donation valued at $550,800 consisting of design and implementation of a training program and 6 month gym memberships which includes temporary use of gym facilities for training.	Authority to accept the donation approved on 8-29-03
District of Columbia Public Library	Anonymous	Miscellaneous books valued at $6.	Authority to accept the donation approved on 8-6-03
District of Columbia Public Library	Library Foundation	In-kind donation valued at $2,640 for refreshments for the Enhanced Business Information Center (E-BIC) on September 24, 2003.	Authority to accept the donation approved on 9-23-03
District of Columbia Public Library	CBS Market Watch	In-kind donation of new and recently published business books valued at $70.	Authority to accept the donation approved on 9-30-03
District of Columbia Public Library	Friends of the Library for the Blind and Physically Handicapped	In-kind donation of (3) computers and computer equipment valued at $550.	Authority to accept the donation approved on 9-30-03
District of Columbia Public Library	Friends of the Library for the Blind and Physically Handicapped	In-kind donation of (3) computers and computer equipment valued at $618.	Authority to accept the donation approved on 9-23-03
Department of Mental Health	ING Financial Advisors	In-kind donation of ice cream valued at $1,000 for an employee benefits and recognition seminar.	Authority to accept the donation approved on 9-30-03
Office of the Chief Technology Officer	Benchmarking Partners	In-kind donation valued at $15,000 to develop a graphical storyboard and presentation that describes the value and benefit of the Project Shield 911 Connection Pilot.	Authority to accept the donation approved on 8-28-03
Parks and Recreation	Washington Sports and Entertainment	In-kind donation of 200 Washington Mystic basketball game tickets valued at $1,800 for youth in the Day Camp and Roving Leaders Program.	Authority to accept the donation approved on 7-22-03
Parks and Recreation	Western Union	In-kind donation to refurbish the basketball courts at Barry Farm Recreation Center valued at $25,000.	Authority to accept the donation approved on 8-25-03
Parks and Recreation	Green Spaces	Financial donation of $100,000 to fund one FTE. The trained horticulturist will work with the various friends of the parks groups to improve the parks.	Authority to accept the donation approved on 9-30-03

District Recipient	Donor	Donation Information	Approval Date
Parks and Recreation	Hope for the Future	In-kind donation of Arts and Craft supplies valued at $4,219 that will be used at the Kennedy Recreation Center.	Authority to accept the donation approved on 8-12-03
Parks and Recreation	KaBOOM	In-kind donation of skateboard ramps, grind rails, and other equipment valued at $65,000 to be used to support the development of a skate park at the Shaw Recreation Center.	Authority to accept the donation approved on 9-30-03
Parks and Recreation	District of Columbia Building Industry Association	In-kind donation to renovate and refurbish Deanwood Day Care Center valued at $725,000.	Authority to accept the donation approved on 9-17-03
Parks and Recreation	Girl Scouts of America	In-kind donation of recreational equipment including baseballs, weights, rackets, and jump ropes valued at $300.	Authority to accept the donation approved on 8-12-03
Metropolitan Police Department	Purdue Pharmaceutical	Financial donation of $10,000 to support the Drug Diversion Unit of the Major Narcotics Branch. Donation will be used to investigate the illegal distribution of prescription drugs.	Authority to accept the donation approved on 8-7-03

OFFICE OF PROPERTY MANAGEMENT
441 - 4TH Street, N.W.
Washington, D.C. 2001

REQUEST FOR PROPOSAL

QUESTIONS TO ALL APPLICANTS FOR THE RFP OF THE OLD NAVAL HOSPITAL

The following is a list of questions asked to the Office of Property Management regarding the Request for Proposals due December 1, 2003 for the lease of the Old Naval Hospital located at 921 Pennsylvania Avenue, S.E., Washington, D.C. 20003:

1. Are you able to access the building?

   Yes, please contact Aimee Occhetti at 202-724-4141.

2. Are you able to access the Carriage House on the property?

   Yes, please contact Aimee Occhetti at 202-724-4141.

3. Are you able to access the third floor?

   Yes, please contact Aimee Occhetti at 202-724-4141.

4. Can we get a copy of the condition assessment that was completed on the building?

   Yes, please contact Aimee Occhetti at 202-724-4141.

5. Can we get a copy of the Urban Land Institute's study of the building?

   Yes, please contact Aimee Occhetti at 202-724-4141.

6. What is the property zoned?

   The property is zoned C-2-A.

If you have any questions, please do not hesitate to contact Aimee Occhetti at 202-724-4141.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF PEPCO'S REQUEST FOR FINDINGS PURSUANT TO THE REQUIREMENTS OF THE PUBLIC UTILITIES HOLDING COMPANY ACT

FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF PEPCO AND NEW RC INC. FOR AUTHORIZATION AND APPROVAL OF MERGER TRANSACTION

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 34-1501 of the District of Columbia Code,[1] of the request of the Potomac Electric Power Company ("PEPCO") for findings, pursuant to Section 79z-5a(c)(B) of the Public Utilities Holding Company Act ("PUHCA"),[2] allowing 185 MW Deepwater Generation Station ("Deepwater") to qualify as an Eligible Facility as defined in 15 U.S.C. Section 79z-5a(a)(2). Deepwater is owned and operated by Atlantic City Electric Company ("ACE"), a second-tier subsidiary of Potomac Holdings, Inc. ("PHI"). PEPCO is a direct subsidiary of PHI. If found to be an Eligible Facility, Deepwater will be able to operate as an Exempt Wholesale Generator ("EWG").[3] The Commission invites comments from any interested parties on PEPCO's Application. The Commission will act upon PEPCO's Application in not less than 30 days from the date of publication of this Notice in the *D.C. Register*.

2. On August 22, 2003, PEPCO filed an Application with the Commission[4] requesting that the Commission, as the agency with rate setting authority over an affiliate of ACE, make findings qualifying Deepwater to be an Eligible Facility. In order to be an Eligible Facility, PUHCA requires state utility commissions to find that the subject facility proposing to be an EWG satisfies three elements: (1) that it will benefit consumers; (2) is in the public interest; and (3) does not violate State law (District of Columbia law, in this instance).[5]

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1 D.C Code, 2001 Ed. § 34-1501.

2 15 U.S.C. § 79z-5a(c)(B) (1997).

3 An EWG is "any person determined by the Federal Energy Regulatory Commission to be engaged directly or indirectly through one or more affiliates as defined in section 79(a)(11)(B) of this title, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale." 15 U.S.C. § 79z-5a(a)(1) (1997).

4 *Formal Case No. 1002, In the matter of the Joint Application of PEPCO and New RC Inc., for Authorization and Approval of Merger Transaction*, Request of Potomac Electric Power Company for Specific Findings Under the Public Utility Holding Company Act (August 22, 2003) ("Application").

5 15 U.S.C. § 79z 5(a)(c). *See also* Application at 2.

3. ACE, incorporated and doing business in the state of New Jersey, engages in the production, generation and sale of electric retail energy.[6] It intends to transfer Deepwater either to Conectiv Delmarva Generation, Inc. ("CDG") or to Conectiv Atlantic Generation, LLC ("CAG") or, in the alternative, sell Deepwater to a third party purchaser.[7] The Application states that consummating each or any these transactions may be more easily facilitated by first pre-qualifying Deepwater as an Eligible Facility.[8]

4. PEPCO's Application is on file with the Commission. A copy of the Application may be reviewed at the Office of the Commission Secretary, Second Floor, West Tower, 1333 H Street, N.W., Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the Application are available, upon request, at a reproduction cost. Comments on PEPCO's application, setting forth the specific grounds for each representation, should be made in writing to Sanford M. Speight, Acting Commission Secretary, at the above address. Comments must be received within 30 days of publication of this Notice in the *D.C Register*. Interested persons may file reply comments within 45 days of the publication of the *Notice*, after which time the Commission will take final action on PEPCO's Application.

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[6] *Id.* at 2.

[7] The Commission in a previous Order found that CDG and CAG qualify as Eligible Facilities. *See Formal Case No. 1002,* Order No. 12726, rel. May 2, 2003 at 3. *See also* Application at 1-2, 6-7.

[8] Application at 3-4.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17065 of GAP, Inc., pursuant to 11 DCMR § 3104.1, for a special exception to allow a child development center (140 children and 28 employees) under section 205, (last approved by BZA Order No. 16153, dated October 11, 1996) in the R-5-D District at premises 3636 16th Street, N.W. (Woodner Apartment Building) (Square 2624, Lot 831).

HEARING DATE: October 28, 2003
DECISION DATE: October 28, 2003 (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) 1D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. ANC 6C submitted a letter 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 § 205. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, 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 ANC and OP the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted, subject to the conditions set forth below, 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 findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS:**

1. Approval shall be for **TEN (10)** years.
2. The center shall have a maximum of 140 children.
3. The number of employees shall not exceed 28 persons.
4. The hours of operation shall be from 7:00 AM to 6:00 PM, Monday through Friday
5. Ten (10) parking spaces shall be provided in the on-site parking garage for the exclusive use of the center.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., David A. Zaidain and Peter G. May 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: NOV 0 6 2003

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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, 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 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. 17068 of Eric and Holly Takamura, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two story rear addition to a single-family row dwelling under section 223, not meeting the lot occupancy requirements (section 403), in the R-4 District at premises 622 A Street, N.E. (Square 867, Lot 93).

HEARING DATE: October 28, 2003
DECISION DATE: October 28, 2003 (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) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application provided that the total building area did not exceed 70 percent. The Applicant submitted revised plans showing compliance with the lot occupancy requirements under section 223.

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 § 223. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, 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 ANC and OP 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, subject to the conditions set forth below, 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 findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED.**

VOTE: **5-0-0** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, David A. Zaidain and Peter G. May 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: NOV 0 6 2003

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.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE

§ 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, 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 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. 17070 of Meridian International Center, (the "applicant") pursuant to 11 DCMR § 3104.2, under Section 214 to modify Conditions (e) and (f) of BZA Order No. 5802, dated February 24, 1960, to allow accessory parking for the building located at 1630 Crescent Place, N.W. (Square 2568, Lot 809) to be relocated from the surface to two levels of underground garage in new development permitted on the subject property as a matter of right in the R-5-B District at premises located at 17th and Belmont Streets, N.W. (Square 2567, Lot 850) (the "Application").

HEARING DATE: September 30, 2003
DECISION DATE: October 14, 2003

DECISION AND ORDER

On October 14, 2003, the Board of Zoning Adjustment voted to grant the above application for the reasons stated below.

PRELIMINARY MATTERS

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

Notice of Public Hearing The Board of Zoning Adjustment (the Board) scheduled a hearing for September 30, 2003. Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (ANC) 1C, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

ANC 1C The subject site is located within the jurisdiction of ANC 1C, which is automatically a party to this application. Although not required to do so under applicable law, the applicant met with ANC representatives, resulting in the development of a Memorandum of Understanding between the ANC and Meridian International Center (the "Meridian MOU"). The Meridian MOU encompasses a number of different issues, all designed to address parking and traffic in the neighborhood, both during construction and after construction. Consistent with the MOU, the ANC voted unanimously to support the application with conditions, and filed a report to this effect pursuant to 11 DCMR § 3119.2.

Requests for Party Status The Board received one request for party status in opposition from the Beekman Place Condominium Association, Inc., ("Beekman") represented by

its treasurer, Christiane L. Roehler. Over objection by the applicant, the Board granted party status to Beekman based upon its proximity to the proposed new development. Beekman maintained that the proposed relocation of the parking spaces and proposed development of the site would aggravate the current parking difficulties in the neighborhood. However, Beekman eventually withdrew its opposition during the course of the proceedings, in part based upon its support of the negotiated Meridian MOU.

OP Report OP's report indicated that the application meets the tests for special exception approval, and recommended that the application be approved with conditions. The OP presented four recommended conditions for approval. Restated, these conditions provide:

(1) The brick wall at the parking lot required by the previous Board order would be maintained only so long as the area was used exclusively as a surface parking lot.

(2) The 38 parking spaces required under the previous Board order would continue to be required but could be relocated to an underground garage at the same site. The covenant recorded among the land records which reflected the obligation to provide spaces at the site may be modified to allow for an underground garage beneath the new development at the site.

(3) Meridian would buy or lease 40 off-street parking spaces during the project construction period. The construction period is defined as the period beginning from the first day the parking spaces located on the existing lot are made inaccessible by construction, to the date Meridian takes possession and is able to use the 39 parking spaces in the new garage.

(4) Meridian would provide an attendant, on an as-needed basis, to maximize the use of parking space on its property located at 1630 Crescent Place, known as the east parking lot, to achieve the full capacity of 50 spaces for events.

Parties and Persons in Support The Board received a letter in support of the application from Jim Graham, Ward 1 Councilmember. ANC 1C, through testimony by Jeff Coudriet, the ANC Single Member District representative for 1C08, in which this site is located, and by letter dated September 23, 2003, from Alan Roth, ANC chair, supported the application provided that the Meridian MOU were incorporated in the new Board order. Carl Schmidt, a resident of the Beekman Place Condominium Association, testified and submitted a letter in support of the application, also conditioned upon incorporating the Meridian MOU and certain aspects of a second Memorandum of Understanding between the developer of the site and the ANC (the "Developer MOU"), in the Board's order.

FINDINGS OF FACT

1. Meridian International Center ("Meridian") holds a special exception to operate a private school and cultural center at 1630 Crescent Place, N.W, Square 2568, Lot 809. The special exception was approved by this Board in Appeal No. 5802 in an order dated (on or about) February 24, 1960 ("the 1960 order")[1].

2. The 1960 order also granted Meridian a special exception for off-site accessory parking at 17th and Belmont Streets, N.W., in Square 2567, Lot 850. (the "site"). This site, which is the subject of this proceeding and which is also owned by Meridian, is located in the R-5-B District.

3. Meridian proposes to sell the site to a developer for matter-of-right residential development under the existing R-5-B zoning of the property. The existing accessory parking lot contains 38 spaces. As a condition of the sale of the site, Meridian has reserved for itself the ownership and exclusive use of 39 parking spaces to be located in the new construction on the site, in a below-grade garage.

4. Meridian seeks approval to modify two conditions within the 1960 Board order granting the original special exception approval to Meridian. Because of the proposed matter-of-right development, conditions within the order must be modified, as follows: Condition "e" of the order requires a 42 inch high, 12 inch thick, brick wall along the street frontage. This requirement will become unnecessary if the property is developed as proposed. Condition "f" of the order requires the site to be used "exclusively" as the required accessory parking for the Meridian building. This requirement conflicts with the matter-of-right development which is proposed.

5. The Board finds that that the applicant's proposal to relocate the parking to a below-grade garage will not result in the loss of any accessory parking and will actually result in one more parking space than was required in the 1960 order.

6. The Board is persuaded that Meridian will meet its obligation to provide temporary accessory parking elsewhere during the construction period. While the residential development and garage is being constructed at the site, Meridian will provide accessory parking at a lot located at the east end of its property, adjacent to Meridian's White-Meyer building (the "White-Meyer Parking Lot"). In addition, Meridian has entered into an agreement with a commercial parking garage operator

[1] Special exceptions were identified as appeals at the time of the original order. The Board's rules of procedures were subsequently amended to identify special exceptions as applications.

which will enable it to provide 40 accessory parking spaces in the vicinity of the site during the construction period.

CONCLUSIONS OF LAW

Meridian Qualifies for Modification of its Special Exception. Meridian's application will be treated as a request to modify its1960 special exception to operate accessory parking spaces at a site near the school and cultural center. The 1960 approval was granted pursuant to § 3101.411 of the Zoning Regulations in effect at the time (*Zoning Regulations of the District of Columbia*, effective May 12, 1958). As a result, the Board will not evaluate each and every one of the special exception criteria that were established at that time. Rather, the Board will examine only those aspects of the special exception that Meridian seeks to modify, i.e. relocating the surface parking spaces to an underground garage.

The proposed modification is in accord with the Zoning Regulations. The requested special exception modification must "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. Second, it must "not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map" 11 DCMR § 3104.1. The proposed modifications in this case meet each of these requirements. The underground garage will be compatible with the surrounding neighborhood, particularly the matter-of-right residential development. The special exception for accessory parking has existed for over 40 years without any adverse effects on neighboring properties. Meridian merely seeks to relocate the surface parking spaces to an underground garage. Provided Meridian complies with the conditions specified in this order, the relocated parking spaces should not result in any adverse impacts on neighboring properties.

The Board is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, as amended; D.C. Official Code § 1-309.10(d)(3)(A)), to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC's issues and concerns. In this case the ANC supported Meridian's proposal to modify the special exception for accessory parking, provided certain aspects of the negotiated MOUs were incorporated in the Board's Order. However, the Board may only impose conditions that are necessary to mitigate the potential adverse impact of the zoning relief granted. Therefore the Board is only imposing those MOU terms that meet this standard as conditions of this modification.

In light of the foregoing, the Board **ORDERS** that the application is hereby **GRANTED** to allow accessory parking for the building located at 1630 Crescent Place, N.W. (Square 2568, Lot 809) to be relocated from the surface parking lot to two levels of underground garage in new development permitted on the subject property as a matter of right in the R-5-B District at premises located at 17th and Belmont Streets, N.W. (Square 2567, Lot 850) **SUBJECT** to the following **CONDITIONS**:

1. The brick wall at the parking lot required by Condition (e) of the 1960 Board order shall be maintained for so long as the area is used exclusively as a surface parking lot.

2. The 38 parking spaces required by Condition (f) of the previous Board order shall continue to be required (with one additional space) but will be relocated to an underground garage at the same site. The covenant recorded among the land records which reflected the obligation to provide spaces at the site shall be modified to allow for an underground garage beneath the new development at the site.

3. Meridian shall buy or lease 40 off-street parking spaces for use during the project construction period. The construction period is defined as the period beginning from the first day the parking spaces located on the existing lot are made inaccessible by construction, to the date Meridian takes possession and is able to use the 39 parking spaces in the new garage.

4. Meridian shall provide an attendant and/or valet parking as follows:

   a. For all events at Meridian where any guests are expected to utilize the new parking garage, an attendant will be stationed near the garage entrance to direct guests to the Meridian parking spaces in the garage, and to provide access through the security gate;

   b. For all events of 150 or more guests, attendants will also be stationed in the parking garage, adjacent to the Meridian parking spaces, and in Meridian's White-Meyer Parking Lot on Crescent Place, N.W., to assist with efficient utilization of the parking area, including the use of stacked parking;

   c. For all events of 200 or more guests, Meridian will use valet parking.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, and David A. Zaidain to approve; John G. Parsons to approve by absentee vote; Curtis L. Etherly, Jr. not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: NOV 1 8 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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 § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF

ZONING COMMISSION ORDER NO. 664-C
Case No. 98-02M/97-12M/94-17C/91-19M/89-19C
(Washington Development Group – Modification)
July 31, 2003

This Decision and Order arises out of a request by Washington Development Group, Inc. ("WDG" or "Applicant"), for a time extension of its planned unit development ("PUD") approved in Zoning Commission Order Nos. 664, 664-A, and 664-B.

At its July 31, 2003, public meeting, the Zoning Commission for the District of Columbia ("Commission") denied the Applicant's request for an extension, having been unable to find that there had been "no substantial change in any of the material facts upon which the Commission based its original PUD approval that would undermine the Commission's justification for approving the original PUD", as required by 11 DCMR § 2408.10(b).

Procedural History

The property that is the subject of this application, located in the air-rights parcel above the Center Leg of the Interstate 395 Freeway, is owned by the District of Columbia. The Applicant and the District of Columbia entered into a lease of the property. The lease is dated December 28, 1990.

A PUD in the air-rights parcel was first approved by the Zoning Commission in Case No. 89-19C, Order No. 664, dated June 11, 1990. The approved PUD consisted, essentially, of a deck over Interstate 395 south of Massachusetts Avenue, N.W. and north of E Street, N.W. There were to be three (3) office buildings, an apartment building, a hotel, and a retail pavilion. The PUD was modified in Case No. 91-19M, by Order No. 664-A, dated June 8, 1992, which permitted the addition of an atrium connecting the two (2) office buildings nearest Massachusetts Avenue, the elimination of one floor for each of those office buildings, the addition of an auditorium, and the reconfiguration of open space on the deck. This modification request was motivated by the Applicant's efforts to secure a lease of office space to the Securities and Exchange Commission.

In 1995, the Applicant filed an application to extend the validity of the modified PUD approved by Order No. 664-A. This time extension request, Z.C. Case No. 94-17C, was approved by Order No. 664-B, dated July 10, 1995, and was to expire two (2) years after the date it was published in the *D.C. Register*, that is, on September 1, 1997.

On August 15, 1997, the Applicant filed a letter with the Zoning Commission requesting a modification of the approved project in order to move the residential component of the PUD off-site to Parcel 51B, a site north of Massachusetts Avenue, N.W. Although the Applicant's letter did not include a formal request to extend the validity of the approved PUD, the Zoning Commission treated it as such.

The modification request was lacking in many respects and was the subject of public hearings before the Zoning Commission held on May 21, July 23, and September 28, 1998 and March 4, 1999. The March 15, 1999, hearing was adjourned midway as a result of the Commission's concerns that there were too many unresolved issues. At the close of the hearing, the Applicant was requested to: (1) respond to eleven (11) requests for specific information from the Zoning Commission; (2) have the D.C. Department of Housing and Community Development ("DHCD") provide evidence that it was a co-applicant in the modification and time extension application; (3) resolve the issue over whether the Applicant had any rights to Parcel 51B, the site north of Massachusetts Avenue; and (4) resolve the Comprehensive Plan language that directed the Mayor to explore canceling the lease with the Applicant. The hearing was continued until June 10, 1999, and by letter dated June 1, 1999, the Applicant requested postponement on the basis that the Financial Responsibility and Management Assistance Authority[1] had yet to reach a decision as to whether the Applicant should be granted control of the site north of Massachusetts Avenue. No further hearings were held in this case.

In the original and subsequent applications for this PUD, the Commission granted party status to the Georgetown University Law Center ("GULC"), the Second Baptist Church, and the Mount Carmel Baptist Church. Advisory Neighborhood Commission ("ANC") 2C[2] was automatically granted party status in the case.

On December 13, 2002, the Applicant filed a letter with the Office of Zoning requesting that the Zoning Commission confirm that the previously approved PUD remained valid and that the application for the PUD modification was active, pending resolution of the litigation over site control of the property included in the PUD.

On December 30, 2002, counsel for GULC objected to the Applicant's request for confirmation that the PUD remained valid. Counsel for GULC stated: there was no communication from the Applicant between June 1999 and December 13, 2002, regarding the PUD modification application; the Applicant failed to comply with the Commission's request that it submit a complete application for the modification; the Applicant failed to comply with the Commission's request that it establish that it has title to both the original PUD site and the site upon which the residential component was to be relocated, Parcel 51B; there had been no action by the Commission to extend the original PUD; and the facts originally relied upon were outdated.

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[1] Also known as the Control Board, FRMAA is no longer in existence.

[2] Subsequently, the ANC boundaries were redrawn and the air-rights parcel is now located in ANC 6C.

At its regularly scheduled public meeting on January 13, 2003, the Zoning Commission decided that it would hold a status hearing for this case, with participation limited to the parties and the representative of the property owner, the District of Columbia. By letter dated February 4, 2003, the Office of Zoning informed all parties to this case that submissions regarding the validity of the PUD were to be submitted to the Commission by March 21, 2003, and that the status hearing would be held on April 7, 2003. Thereafter, the Applicant requested that the April 7, 2003, status hearing be postponed. The Zoning Commission granted this request for postponement and rescheduled the status hearing for May 29, 2003.

The status hearing was for informational purposes only and the Commission did not allow testimony or cross-examination. At the status hearing, representatives of the Applicant, representatives of GULC, representatives of ANC 6C, and representatives of the Second Baptist and Mount Carmel Baptist Churches made presentations to the Commission regarding the PUD modification and time extension request.

At the conclusion of the May 29, 2003, status hearing, the Commission required that WDG provide the following information in order to proceed with the application:

- Materials previously requested (on March 15, 1999) by the Zoning Commission to complete the PUD modification application to move the residential component of the original PUD to Parcel 51B north of Massachusetts Avenue, and

- A submission that addressed how WDG satisfied the burden of proof for a PUD extension both in 1997 and today.

On July 3, 2003, WDG submitted a letter to the Commission and the parties in this case stating that it was withdrawing the PUD modification request and again asking the Commission to extend the original PUD.

In support of its request for an extension, WDG's July 3, 2003, submission conceded that the commercial portion of the approved PUD was not large enough to attract a major government tenant seeking in excess of 1,000,000 square feet of net leaseable space, that the construction of a deck over the freeway was very costly, and that the inclusion of thirty percent (30%) of the proposed housing for low/moderate income tenants was economically impractical in 1999. The Applicant also claimed that litigation between a private party and the Applicant regarding the lease for the air-rights parcel, beginning in 1989, caused a "cloud" on the Applicant's interest in the site and made it impossible to obtain financing. In regard to the issue of whether a substantial change in the material facts upon which the Commission based its original decision had occurred, the Applicant provided a cursory response that no substantial changes had occurred.

On July 18, 2003, GULC submitted its opposition to the PUD time extension request. GULC's submission asserted that the Applicant's PUD extension request should be denied, because there

have been substantial changes in the material facts upon which the Zoning Commission based its approval of the PUD, including changes in the neighborhood surrounding the air-rights parcel.

On July 16, 2003, ANC 6C submitted a letter outlining its opposition to the time extension request. The ANC's letter noted that the neighborhood of the Center Leg Freeway has changed significantly since the three (3) Zoning Commission Orders were entered and that numerous large-scale residential projects are presently under construction in the area. It argued that in order to help build and expand the residential neighborhood that is starting to form, more residential units should be required on the air-rights parcel.

On July 30, 2003, WDG submitted a proposed rebuttal to the July 18, 2003, submission of GULC and the July 16, 2003, submission of ANC 6C. WDG's rebuttal was returned, because the Zoning Commission did not provide an opportunity for rebuttal.

The Office of Planning ("OP") submitted a report regarding the modification and extension of the PUD dated July 21, 2003. In this report, OP asserted that it was no longer prudent to extend this PUD and that termination of the PUD will allow an opportunity to determine the means by which the air rights can best be developed. In particular, OP noted that there have been substantial changes in the materials facts (e.g. development patterns and planning policies) upon which the Commission based its original 1990 approval of the PUD that would undermine the Commission's justification for approving the original PUD. OP noted that residential construction now surrounds the PUD site, hotel use no longer suffers from poor market conditions, and that the residential component to the PUD is too small. OP also asserted that the configuration of the PUD is inconsistent with the current policies and goals of connecting development in the Downtown East section of the city to the Downtown core.

FINDINGS OF FACT

1. The approved PUD was to be located over the Center Leg of Interstate 395 Freeway, bounded on the north by Massachusetts Avenue, N.W., on the east by the eastern boundary of the Freeway retaining wall and Second Street, N.W., on the south by E Street, N.W., and on the west by the eastern boundaries of Lot 859 in Square 568, Lots 850 and 849 in Square 566, Lot 58 in Square 564 and a portion of Third Street, N.W.

2. The PUD site contains approximately 271,400 square feet, of which 222,280 square feet were to be developed. The project approved was allowed up to 5.97 FAR, of which 3.50 FAR was to be devoted to office space, .19 FAR to retail use, 1.72 FAR to a hotel and apartments, and .56 FAR to parking. Lot occupancy was to be eighty-two percent (82%) and height was allowed to 130 feet. (Order No. 664-A).

3. Zoning Commission Order No. 664, which originally approved the PUD in 1990, contained a number of factual findings that were relied upon by the Commission in its approval of the PUD, but not longer reflect existing conditions:

(a) The area around the site was being developed with large-scale office buildings. (Finding of Fact 16). Now, however, there is significant residential development occurring in this area.

(b) Portions of the area around the site were occupied by low- and moderate-income tenants and boarded up two- and three-story rowhouses. (Finding of Fact 17). Those row houses have been removed and are being replaced with new development.

(c) The area around the site was zoned HR/C-3-C, C-3-C, HR/SP-2, and SP-2, and the PUD-related zoning of C-3-C, "would be a logical extension of the prevailing C-3-C and HR/C-3-C zoning, which is located on three sides of the PUD site". (Finding of Fact 18). The approval of the original PUD came before the Commission's approval of the Downtown Development District Overlay, which gave the area an entirely new focus by establishing requirements and incentives to develop residential uses. The proposed C-3-C zone is now inappropriate for this location.

(d) The project was determined to be consistent with the Comprehensive Plan. (Finding of Fact 22). The current Comprehensive Plan, however, disfavors the project by directing the Mayor in the Policies in Support of the Public Action Objectives to "Explore the termination of the lease between the District and the Washington Development Group." 10 DCMR § 1138.1(x).

(e) The project was intended to assist the development of the eastern portion of the downtown area. (Finding of Fact 33). However, the area surrounding the air-rights parcel is no longer in need of such assistance. The Downtown East area, especially Massachusetts Avenue between 3rd and 6th Streets, N.W., has seen an abundance of development, primarily residential, in the last 3-5 years. Thus, the originally approved PUD could no longer be seen as a catalyst for development because that development is already well underway.

(f) The proposed balance between residential, office, and hotel was acceptable. (Finding of Fact 60). Now, however, as noted in OP's report, commercial use is no longer encouraged to the extent it was when the original PUD was approved. The Commission agrees with the conclusions of the Office of Planning that large commercial and small residential and retail components of the project are no longer appropriate for the site.

(g) The PUD was compatible with city-wide goals, plans, and programs. (Conclusion of Law 3). However, the Downtown planning and development goals of the District of Columbia and its residents have changed significantly since the original PUD was approved. These new goals and policies now include: increased Downtown housing, increased retail and arts uses Downtown, and improving the connection between the Downtown core and Downtown East. The

PUD does not connect development in the Downtown East section of the city to the Downtown core nor does it add significant housing, retail, or arts use. Therefore, the Commission finds that the PUD is no longer compatible with the current goals and policies of the District of Columbia.

5. OP, ANC 6A, and ANC 2C supported the first extension of this PUD (ZC Order No. 664-B). OP, in its report, did not support this application for an extension. Counsel for ANC 6C, the ANC now representing the area in which the subject property is located, submitted a letter in opposition. The letter did not indicate that it was adopted at a duly-noticed public meeting and, therefore, is not entitled to great weight. ANC 2C, who was sent the notice of the status hearing, did not submit anything for this case.

CONCLUSIONS OF LAW

Chapter 24 of the Zoning Regulations sets forth the time limits for all final PUD approvals (i.e. a consolidated PUD or the second stage of a two-stage PUD). Within two (2) years of final approval of a PUD, an application for a building permit must be filed, unless this time is extended by the Commission. The decision to extend the time for filing a building permit is entirely within the discretion of the Commission. 11 DCMR §§ 2408.8. An extension can be granted only if there is, "no substantial change in any of the material facts upon which the Commission based its original PUD approval that would undermine the Commission's justification for approving the original PUD." 11 DCMR § 2408.10(b). In addition, in order to grant a PUD extension request, the Applicant must demonstrate with substantial evidence that there is good cause for such an extension. 11 DCMR 2408.10(c). If either of these criteria is not met, the Commission has no choice but to deny the application for an extension.

As stated in Finding of Fact No. 3, and as concluded by the Office of Planning and ANC 6A, to whom the Commission must give great weight, significant and substantial changes have occurred in the area surrounding the subject property since 1990, the date of the original approval, and in 1992, the date of the last approved modification. Therefore, the facts the Commission relied upon in approving the PUD have changed substantially such that the Commission's justifications for approving the PUD are undermined. Thus, the Commission must deny the request for an extension of the PUD.

The Commission did not reach the issue of whether there was good cause for the extension in this case, having found that the requirement established in 11 DCMR § 2408.10(b) was not met.

DECISION

For the reasons stated above, the Commission concludes that the applicant has not met the burden for extending the period of approval for a planned unit development as outlined in 11 DCMR § 2408.10. It is hereby **ORDERED** that the applicant's request for an extension of the period of approval for the planned unit development is **DENIED**.

Vote taken at its July 31, 2003, decision meeting: 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, James H. Hannaham, and Peter G. May, to deny).

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Order No. 02-15-B
Case No. 02-15
(Text Amendment – Public Recreation and Community Center Use -- 11 DCMR)

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.

ZONING COMMISSION ORDER NO. 02-38
Case No. 02-38
(First-Stage PUD – Waterfront)
July 31, 2003

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on February 13 and March 31, 2003, to consider an application from Waterfront Associates LLC ("Applicant"), a partnership of Forest City Washington, the Kaempfer Company, and Bresler & Reiner, Inc. The Application is for review and approval of the first stage of a two-stage planned unit development ("PUD" or "the Project") and a related zoning map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed project is a redevelopment and adaptive re-use of the existing Waterside Mall property into a medium-high density mixed-use complex of offices, apartments, and retail establishments, together with a new roadway through the site. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Application subject to the specified conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On September 30, 2002, the Applicant submitted an application to the Zoning Commission for the first stage of a two-stage PUD and a related zoning map amendment from C-3-B to C-3-C for the four (4) corners of the site in order to construct a large mixed-use complex and neighborhood commercial center. On October 28, 2002, the Zoning Commission decided to schedule a public hearing on the application.

2. The subject property is a large site consisting of approximately 13.42 acres at 401 M Street, S.W., comprising Lot 60 in Square 499 and Lot 88 in Square 542 and bound generally by M, I, 3rd, and 6th Streets, S.W. (the "PUD Site").

3. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on December 20, 2002 (49 DCR 11387). The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commission ("ANC") 6D.

4. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The two-stage PUD process is appropriate in this case as it involves a large site with multiple building types and complex site planning, transportation, and urban design issues. This first-stage order governs site planning, land use planning, traffic, general density, and similar broad issues. The second stage PUD process will consist of reviews of more detailed plans and a determination of consistency with the intent and standards of this first-stage PUD order.

5. The parties in the case were the Applicant and ANC 6D.

6. The Zoning Commission opened the public hearing on February 13, 2003, and completed the hearing on March 31, 2003.

7. At its public meeting of June 9, 2003, the Zoning Commission took proposed action to approve the application by a vote of 5-0-0.

8. After referral to and review by the National Capital Planning Commission (see Finding of Fact 36), the Zoning Commission took final action to approve the application on July 31, 2003.

The Site

9. The property that is the subject of this application is located in the Southwest neighborhood, within the former Southwest Urban Renewal Area. The existing Waterside Mall was built in phases primarily in the 1970s. It is situated on the major part of a large "superblock" bounded by M, I, 3rd, and 6th Streets, S.W. Fourth Street between M and I Streets, S.W., was closed to create this large development site and to facilitate the new construction.

10. The central mall structure is three (3) stories and forty-five (45) feet in height, plus a basement level. Because of problems maintaining viable retail and personal service uses in the Mall, the upper floors are devoted to office uses, and on the ground floor, some spaces are vacant and some are occupied by office uses. An Urban Land Institute ("ULI") study conducted in 1998 (*Southwest Washington, D.C.: A Strategy for Revitalizing Waterside Mall and the Waterfront*) found a very high vacancy rate in the retail spaces in the mall. The structure also includes two (2) 130-foothigh office towers, which were leased for many years up to 2002 to the General Services Administration ("GSA") and occupied by the Environmental Protection Agency ("EPA"), with 5,500 employees..

11. With a land area of 584,655 square feet and an existing gross floor area of approximately 1,316,871 square feet, existing improvements constitute approximately a 2.25 FAR. In addition to 285 surface parking spaces, there are approximately 967 underground spaces for a total of 1,252 parking spaces.

12. With the office space and the majority of the retail space vacant, the application states that the time is ripe for the complex to be renovated and restructured, noting there are two

(2) critically important reasons to expeditiously rebuild and reoccupy the space. The first is to avoid the numerous negative effects on the surrounding neighborhood and the local economy of a large building complex remaining vacant for a period of years. The second is to provide a large number of employees in the building who will patronize the ground floor retail and services so that the retail establishments will prosper and serve the surrounding neighborhoods as well as the employees. The Commission concurs in this assessment.

The Surrounding Area

13. Other uses on the superblock with the Waterside Mall include four (4) large, high-rise apartment buildings – two (2) of them to the east and two (2) to the west of the mall. To the north, fronting on the south side of I Street, are two (2) churches, federal parkland, and a District of Columbia library (Southwest Branch). To the south, the M Street side of the mall, is the entrance to the Waterfront/Southeastern University Metrorail station.

14. The PUD Site is predominantly surrounded by residential areas having a planned mixture of building types, constructed pursuant to design review under the Southwest Urban Renewal Plan, which was legally in effect from 1952 to 1996. The various residential developments are typified by modern design, with building types including high-rise apartments, garden apartments, townhouses, and two-unit townhouses, or flats. The buildings are surrounded by ample open spaces, trees, and landscaped areas. Such residential areas are seen to the north and south of the PUD Site. The Amidon Elementary School and the Southeastern University are also located along the north frontage of I Street.

15. Across 3rd Street to the east is the low-rise Greenleaf Gardens public housing complex, situated on three (3) city blocks bounded by M, I, and 3rd Streets and Delaware Avenue, S.W. Greenleaf Gardens is an example of pre-existing residential development that was not demolished and redeveloped under the urban renewal plan.

16. Across 6th Street to the west is the Arena Stage, which serves a city- and region-wide clientele. South of Arena Stage and across Maine Avenue is St. Augustine's Church. From St. Augustine's, the Southwest Waterfront on the Washington Channel extends to the west and northwest for approximately half a mile. Waterfront buildings and uses include cruise ship lines, a police pier, several marinas, large restaurants, a fish market, and a hotel. The buildings accommodating these uses are of moderate height and bulk, approximately twenty (20) to forty (40) feet in height. They are served by parking lots situated between Water Street and Maine Avenue. Between the commercial buildings and the waterfront is a continuous two-level pedestrian promenade, as well as small public open spaces.

Existing and Proposed Zoning

17. The PUD Site is zoned C-3-B (Major Business and Employment Centers), the purpose clause of which states, "The C-3-B districts shall permit medium density development,

including office-retail, housing, and mixed uses. It is intended for uptown locations, where the largest component of development will be office-retail and other non-residential uses." (11 DCMR § 740.6) Subsection 740.7 goes on to state that C-3-B districts, "shall be compact in area and shall be located in or near the Central Employment Area, on arterial streets, in uptown centers, and at rapid transit stops." Matter-of-right uses include a wide variety of office, retail, housing, hotel, and mixed uses to a maximum height of seventy (70) feet/six (6) stories, a maximum density of 5.0 FAR for residential and mixed uses, with a maximum density of 4.0 FAR for commercial and other non-residential uses. In Zoning Commission ("ZC") Order No. 967 dated September 9, 2002, the Commission adopted a text amendment that allows the Waterside Mall property to continue to be treated as one building for zoning purposes in the event that construction of a right-of-way through the property creates two (2) physically separate buildings.

18. The existing improvements, which are entirely non-residential, occupy approximately 2.25 FAR. This is well within the permitted maximum density of 4.0 FAR for commercial uses. The height of the existing office towers of 130 feet would normally have rendered the building a nonconforming structure based on height. However, one of the special provisions adopted in ZC Order No. 807 (Southwest Area Rezoning) provides:

> *2521.1 (c) A building or structure that was built prior to [November 20, 1998] which conformed to the height, area and bulk provisions of the Urban Renewal Plans shall be considered a conforming structure under these Regulations and in the event of fire, collapse, explosion or act of God may be built to its size as of the date specified above.*

Accordingly, the 130-foot office towers are conforming structures and may be renovated and reoccupied under existing C-3-B zoning.

19. Several phases of the redevelopment plan are within the height and bulk limits of the C-3-B zone and will be carried out as a matter of right. However, the Applicant requests that the four (4) corners of the site be rezoned C-3-C in order to accommodate additional height and bulk and to offset the loss of land area for the new roadway through the site. The C-3-C zone is a medium-high density commercial zone that allows a maximum density of 6.5 FAR and a maximum building height of ninety (90) feet. With a PUD, the maximum bulk is 8.0 FAR and the maximum height is 130 feet. Permitted uses include a wide variety of office, retail, residential, hotel, and mixed uses.

20. The zoning classifications of areas surrounding the PUD Site include R-5-D for the immediately adjacent apartment towers, R-5-C for less dense high-rise apartments, R-5-B for areas generally developed with garden apartments, and R-4 for areas improved with townhouses and flats. The land fronting on the Southwest Waterfront is zoned W-1.

The PUD Project

21. The Applicant proposes to reconstruct the subject property into a new development to be known as "Waterfront," consisting of a mixture of office, retail, and residential uses at medium-high density. The general development pattern will consist of retail uses on the ground floor of new or renovated office buildings, two (2) apartment buildings, a public plaza surrounding the Metrorail station entrance, and a new north-south roadway through the center of the site. The parking and loading facilities will continue to be those now in existence in the underground garage, supplemented by existing and new parking and loading at and above grade.

22. The central part of the existing mall will be demolished in order to build the new roadway along the axis of 4th Street that will connect with 4th Street to the north and south of the PUD Site. The roadway is intended to improve area circulation; open up the site visually, allowing more light and air to reach the interior of the site; and support new retail uses along 4th Street. The proposed fifty-five (55) foot wide roadway will provide two (2) lanes of moving traffic, a turning lane, and curbside parking lanes on both sides of the street, as well as wide sidewalks within the ninety (90) foot wide passageway. The wide sidewalks and curbside parking are designed to enhance the retail and pedestrian environment along 4th Street. The two (2) moving lanes match the two-lane configuration of 4th Street to the north of the site.

23. The Applicant will construct a large, landscaped public plaza surrounding the entrance to the Metrorail station in the south-center part of the site. This plaza will constitute a major public amenity both visually and for persons sitting, walking, and congregating in the space.

24. The PUD proposes total development by component uses as follows: Commercial development will total 2,126,500 square feet of gross floor area ("g.f.a."), constituting a density of 3.64 FAR. This will include a minimum of 75,000 square feet of g.f.a. for retail uses with the remainder being office space. The two (2) apartment buildings will total 400,000 square feet of g.f.a., or 0.69 FAR, for a total built density of 4.33 FAR. This is less than the maximum 5.0 FAR for mixed residential and commercial uses allowed in the existing C-3-B zone as a matter of right. The minimum number of parking spaces will be 1,335.

25. The height of buildings will range from renovations with additions at fifty-six (56) feet; new construction at seventy-nine (79) and 112 feet; and renovation of the two (2) existing office towers at 130 feet. The new residential buildings are proposed to be 112 feet high, as are the two (2) office buildings on M Street. The reason for the height of 112 feet is to allow for extra height (12 feet) at the ground floor level to make the space optimal for retail establishments.

26. The project will be developed in several phases, with the timing of the phases dictated primarily by leasing agreements and construction of the roadway. The majority of

leasing and construction is projected to be completed within the next seven (7) years. These phases are summarized as follows:

a. Matter-of-right construction of an addition to the Northeast Mid-rise Building, renovation of the existing East and West (office) Towers, Central Building (office and retail), and Southeast Mid-rise Building;

b. Second-stage PUD (No. 1) for the East and West 4th Street buildings;

c. Second-stage PUD (No. 2) for the West M Street and Northwest residential towers; and

d. Second-stage PUD (No. 3) for the East M Street and Northeast buildings, occurring after the Safeway lease expires in 2020.

27. The Applicant's urban design objectives for the project are as follows:

a. Reconnect the site to the neighborhood by breaking it into two (2) smaller city blocks, with the interior of the site opened up to light and air and public access by re-establishing 4th Street through the site;

b. Line 4th Street and the M Street frontage with ground floor retail uses visible from the outside and accessible to the neighborhood;

c. In place of a single, monolithic low-rise structure, create four (4) identifiable buildings with their own recognizable entrances;

d. Create a more urban development pattern by constructing buildings to the 4th and M Street frontages, thereby visually defining the adjacent streets and public spaces; and

e. Create a mixed-use town center, with office workers providing a significant daytime population, the apartments bringing full-time residents and evening activity to the site, and both of these serving as customers of the retail uses, which will also serve the surrounding neighborhood. The public plaza surrounding the entrance to the rapid transit station completes the town center concept.

28. The project's pedestrian circulation plan will enable pedestrians to walk through the site on wide sidewalks along 4th Street and will remove the surface parking that impedes convenient and safe pedestrian passage. Along 4th and M Streets, the retail display windows, landscaping, and sidewalk surface will create a pleasing pedestrian environment. Each office building component will have a specific vehicular access plan for employees, taking them from the parking garage to elevators in order to access their floor levels. Some vehicular access to parking and loading will occur from 4th Street, as well as from the north-south service drives through the site at its eastern and western edges. The Applicant's preliminary transportation analysis and the D.C. Department of

Transportation ("DDOT") study both found that the anticipated traffic impacts under the PUD would be less than under a matter-of-right scenario, that traffic mitigation measures should be utilized in the detailed plans to be submitted, and that the proposed parking and loading are acceptable and functional.

Public Benefits of the PUD

29. The following public benefits and amenities will be created as a result of the PUD project:

a. *Major Local Development Initiative.* The Waterfront development is a major revitalization effort being undertaken with close cooperation between the Applicant and the District of Columbia to achieve paramount public objectives for the city and the Southwest neighborhood. The agreed-upon actions by the District and the Applicant aim not only to achieve a first-class revitalization of the property into a new Town Center, but also to avoid protracted vacancy of the property after EPA's exodus. Such vacancy could mean the presence of a deteriorating mega-structure blighting and diminishing the quality of the surrounding neighborhoods and the near-absence of retail uses on the site.

b. *4th Street Roadway.* The District of Columbia's and the Applicant's plan to demolish the central part of the Mall structure and create a north-south passageway through the site will improve the existing situation in several ways. It will create a safer, quicker, and more appealing passageway through the site for pedestrians and vehicular traffic; provide the opportunity for retail uses to be located along the 4th Street frontage rather than being primarily in interior spaces removed from streets and sidewalks; create curbside parking opportunities to serve the retail establishments conveniently; and open up the center of the site to more light and air and improved architectural design.

c. *Urban Design.* The PUD project is designed to accomplish several major urban design objectives, including: creating superior streetscape design and pedestrian amenities, including wide sidewalks and the public plaza; reducing the extreme horizontality of the existing structure and introducing more distinctive, vertical buildings that provide more interest and variety along street frontages and relate better to surrounding development patterns; constructing new buildings to the property lines so as to define edges and public spaces; and creating better connections visually and in terms of accessibility to the surrounding neighborhood.

d. *Town Center.* The project will create a new public plaza surrounding the Metrorail station entrance of substantial size, approximately 25,000 square feet in area. It will be suitably paved and landscaped for public use and enjoyment. Together with the active mixture of office, residential, and retail uses on the site, the Metrorail station, the new urban design image, and improved accessibility to the site, the result will be a new Town Center as called for in public planning

goals. The two (2) large apartment buildings to be constructed at the northwest corner of the site will add a substantial residential population to the site. These residents will add "eyes on the street," extra pedestrian movement, and improved public safety.

e. *Retail and Service Establishments.* The Applicant is committed to establishing and maintaining at least 75,000 square feet of retail and service uses at the ground floor level of the buildings. These establishments will occupy the ground floor area of buildings facing 4th and M Streets to a depth of sixty-eight (68) feet and will be highly visible and accessible.

f. *No Adverse Effect on Neighborhood or Public Facilities.* The proposed redevelopment will prevent the numerous negative effects that could impair the neighborhood if the large existing complex remained vacant for some period of time. The adverse effects on neighborhoods from long-vacant buildings are normally visual blight, lack of retail services (in this case), and an increase in crime. DDOT's traffic analysis indicates that the number of parking spaces is ample to serve the proposed development plan and that the street and highway network and public transportation – especially the Waterfront/SEU Metrorail station on site – will adequately function to serve the development and other traffic. The new design will give the property a more distinctive profile suitable to this neighborhood landmark site. The proposed roadway through the site will open it up in terms of light and air and create a more convenient passageway for pedestrians and potentially vehicles as well. The site is currently served by all major utilities, and the increased use of water and sanitary services will have a very minor effect on the city's delivery systems. The reports of government agencies did not identify any problems with capacity of local facilities such as schools to accommodate the proposed PUD project.

g. *Comprehensive Plan Policies.* The proposed PUD is consistent with, or will help implement, a number of policies in the *Comprehensive Plan for the National Capital* (the "Comprehensive Plan"). These include Major Themes from § 101 of the Plan such as:

- "Stabilizing and improving the District's neighborhoods;"
- "Increasing the quantity and quality of employment opportunities in the District;"
- "Respecting and improving the physical character of the District;" and
- "Reaffirming and strengthening the District's role as the economic hub of the National Capital Region."

h. The Generalized Land Use Map of the Land Use Element designates the subject site for Medium-Density Commercial development. The existing C-3-B zoning

was adopted recently (1998) for the site in conformance with the Medium-Density Commercial designation. The proposed PUD stays within the matter-of-right density limits of the C-3-B zone.

i. The PUD project also helps implement various policies in the Economic Development, Housing, Transportation, and Ward Two Elements of the Comprehensive Plan, as set forth in the Applicant's statement.

Report of the Office of Planning

30. By report dated February 6, 2003, and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. The report states, "OP concludes that the application meets the requirements of the Zoning Regulations, is consistent with the Comprehensive Plan, and furthers the City's objectives for the Southwest and the Anacostia Waterfront Initiative." The report also states that the PUD project would utilize only eighty-seven percent (87%) of the 5.0 FAR allowed under the existing C-3-B zoning and that the PUD is needed only for height relief. OP also notes that both the Applicant's preliminary transportation analysis and the DDOT report, "conclude[d] that the anticipated traffic impacts under the PUD would be less than under a matter-of-right scenario." OP recommended that traffic mitigation measures be included in second-stage applications. The report favorably noted the public benefits and amenities of the retail and residential uses, the reopened 4th Street, the maintenance by the Applicant of adjacent federal parkland, the public plaza, and improved urban design. The creation of a Town Center, the proposed retail establishments, and the housing component were emphasized as important public benefits. The report included specific recommended conditions for inclusion in the Zoning Commission order if approval is granted.

Report of the D.C. Department of Transportation

31. By report dated March 11, 2003, and by testimony at the public hearing, DDOT provided its support for the PUD. DDOT recommended that 4th Street be reconstructed as a roadway rather than a pedestrian-only facility. However, their report recommends several mechanisms to maintain a heavy pedestrian emphasis within the right of way of the proposed new roadway. These include parallel parking, only two (2) travel lanes and another, central lane for left turns into the project, and raised pedestrian crosswalks at some locations. Other transportation improvements were recommended to help mitigate future traffic impacts. DDOT indicated that it intended to continue to work with the Applicant and the surrounding community to formulate more detailed recommendations as the PUD undergoes further clarification and design.

Reports of Other Agencies

32. The Department of Housing and Community Development ("DHCD"), by report dated March 18, 2003, recommended approval of the Application. DHCD stated that the re-opening of 4th Street, "is one of the most important aspects of the Redevelopment,"

because it will facilitate traffic flow, create better access to the retail uses along 4th Street, and help alleviate existing traffic congestion on 3rd and 6th Streets, S.W. The report favored the Applicant's proposal to retain the existing pharmacy, grocery store, and bank during the construction period, and recommended that this should be a condition of PUD approval. DHCD also strongly supported the amount of parking to be provided, the partial rezoning to C-3-C, the inclusion of a substantial residential component, the landscaped plaza, and the urban design plan.

Report of Advisory Neighborhood Commission 6D

33. By letter dated March 31, 2003, and by testimony at the public hearing, ANC 6D recommended denial of the application, citing a number of areas of concern. In summary, these include:

a. The proposed 110-foot-high buildings would, "dwarf neighboring structures, significantly blocking light, vistas and open space, and creating a 'canyon effect';"

b. The doubling of the quantity of office space on the site will not support necessary neighborhood-serving retail uses but only uses serving office workers; will eliminate the existing, convenient surface parking on the site; and will not create sufficiently wide sidewalks for pedestrians except in the public plaza;

c. The proposed towers at the southeast and southwest corners of the PUD site should be set back farther from M Street so as to allow more green space and protect vistas from the Metrorail station entrance toward the Southwest waterfront;

d. The proposed reopening of 4th Street to vehicular traffic will not create sufficient benefits to offset the conflicts between vehicles and pedestrians. The City must commit to carry out the traffic mitigation measures from the DDOT traffic study;

e. The redeveloped Mall could be accomplished under matter-of-right zoning. The only significant public amenity is the public plaza;

f. The retail and residential uses will be delayed too much by the need to lease office space first, and the project will take too long to be built. The residential component should be larger; and

g. The PUD should also include hiring and job training for neighborhood residents, a citizen panel to help select retailers, and a community meeting room.

Testimony in Support

34. Numerous residents in the vicinity of the PUD project sent letters and testified in support of the project complaining about existing blighted and unsafe conditions at the Mall, as well as inadequate retail and community services. They expressed support for a wholesale redevelopment of the site. Many also expressed support for the

reestablishment of 4th Street through the site, the project design, proposed housing, and planned retail component.

Testimony in Opposition

35. Several residents in the vicinity expressed opposition to various aspects of the proposed PUD, including the new 4th Street cut-through and the height and setbacks along M Street. Some suggested that the proposed retail and housing components be increased.

Recommendation of the National Capital Planning Commission ("NCPC")

36. The proposed PUD and map amendment were referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. The NCPC considered this matter at its July 10, 2003, meeting and approved the staff recommendation, which states in part, "The Commission concludes that the proposed First-Stage PUD and related rezoning . . . to allow for the mixed use redevelopment of Waterside Mall . . . would not adversely affect the identified federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital."

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 two-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning 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 this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that 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 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. The height and density will not cause an adverse effect on nearby properties and will, in fact, include less density on the PUD Site than is permitted as a matter-of-right. The proposed mixed-use development is appropriate on this site, which is well served by a major arterial street, bus lines and an on-site Metrorail station.

6. First-stage approval of this PUD and the existing C-3-B and proposed C-3-C zoning is not inconsistent with the Comprehensive Plan, including the designation of the site for Medium-Density Commercial development in the Generalized Land Use Map of the Land Use Element.

7. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission acknowledges and responds to the issues stated by ANC 6D in its formal submission dated March 31, 2003, as follows:

   a. As to the statement that the proposed 110-foot-high buildings will create a canyon effect; dwarf neighboring structures; and block light, air, and open spaces, the Commission is persuaded by the Applicant's and OP's testimony. That testimony argued that the nearest residential buildings are located to the south of the PUD Site and therefore will experience no loss of sunlight; that the ample width of M Street and the existence of some ninety (90) foot high buildings on the south side of this street mitigates any extreme difference in height or any canyon effect. The Commission is also persuaded by the testimony and graphic illustrations by the Applicant's architect that the relationship of the project's scale to its surroundings is sound, and that there are no adverse effects on views from the Metrorail station entrance toward the waterfront;

   b. The Commission finds that the quantity of office space is not excessive, given the costs of redeveloping and readapting an obsolete building and the existence of rapid transit service and major arterial streets and bus service to accommodate commuter traffic. In addition, the Comprehensive Plan designates the site for commercial development of this magnitude, as reflected by the underlying zoning;

   c. The ANC would prefer more retail space and is concerned that the presence of numerous office workers will result in retail uses more suitable for office workers than the surrounding neighborhood. The Commission notes that the Safeway lease is valid until 2020 and that the Applicant must provide at least 75,000 square feet of retail uses. The Applicant has stated in the record of this case that retail establishments will be typical strip center tenants: restaurants, coffee shops, flower shops, video store, grocery store, drug store, bank, electronic store, bakery, repair shop, dry cleaners, and the like;

d. The Commission disagrees with the ANC's statement that amenities and public benefits are inadequate. The public benefits and amenities as set forth under Findings of Fact in this Order are appropriate to the degree of zoning flexibility being requested;

e. The report supported the residential component of the PUD and OP's recommendation for assuring the timing of residential development. The Zoning Commission concurs; and

f. The decision to reopen 4th Street rests with the Mayor of the District of Columbia, not the Commission. D.C. Official Code § 9-203.01 (2001). This order does not authorize the street to be reopened, but considered the proposed reopening as part of its analysis of the merits and impact of this project. As a result of that analysis, the Commission concurs with the ANC recommendation that the District commit itself to the traffic mitigation measures recommended in the DDOT report. The Commission has also fashioned a condition to require that each second stage PUD application include the traffic mitigation measures recommended in the DDOT study.

8. First-stage approval of the PUD Application 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 Zoning Map of the District of Columbia.

9. The Application is subject to compliance with D.C. Law 2-38, as amended, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission orders **APPROVAL** of the Applications for first-stage review of a Planned Unit Development and for a Zoning Map amendment from C-3-B to C-3-C for indicated parts of the property located at 401 M Street, S.W., specifically Lot 60 in Square 499 and Lot 88 in Square 542. This approval is subject to the following guidelines, conditions, and standards:

1. The final PUD design shall be developed in accordance with the site plan and preliminary architectural and landscape plans submitted as Exhibits 5 and 17 in the record of this case, and as modified by the guidelines, conditions, and standards of this order.

2. The Project shall be developed with office, residential, and retail uses, together with public spaces, generally as depicted in the preliminary plans submitted in this first-stage application. A minimum of 75,000 square feet of retail space shall be included in the project.

3. The maximum building height in the Project shall be 112 feet and the maximum aggregate floor area ratio shall be 4.33, comprised of 3.64 FAR devoted to office and

retail uses and 0.69 FAR devoted to residential apartments. No fewer than 1,335 parking spaces shall be provided.

4. The four (4) corners of the PUD Site shall be zoned C-3-C, encompassing a land area of 222,429 square feet as depicted in Sheet 20 of Exhibit 17 of the record.

5. The Applicant is authorized to proceed with matter-of-right phases of this multi-phase project for those buildings that comply with the height, bulk, and use provisions of the existing C-3-B District, as set forth generally above under Finding of Fact Number 26 (a). The remaining phases of development shall be processed in accordance with Condition 6.

6. a. This first-stage PUD approval by the Zoning Commission shall be valid for a period of three (3) years from the effective date of this Order. Within such time, the Applicant must file a second-stage PUD application for at least one (1) of the buildings described in Finding of Fact 26(b), (c), or (d), in order for this first-stage approval to remain in effect;

   b. No later than five (5) years after the effective date of this Order, the Applicant shall apply for a second, second-stage PUD for all the buildings described in Finding of Fact 26(b) and (c) that were not included, in the first second-stage PUD, and may also include either or both of the buildings described in Finding of Fact 26(d); and

   c. If not included in the second second-stage PUD application, a third second-stage application for one or both of the buildings described in Finding of Fact 26(d) shall be made no later than seventeen (17) years after the effective date of this Order, but only if the Applicant has complied with (a) and (b) of this condition.

   The Applicant shall submit with each second-stage application detailed plans and elevations indicating the design treatment of the proposed PUD project, including but not limited to building and landscape materials, color, architectural and landscape details, and zoning data as required for a second-stage PUD application.

7. The Project shall include both residential and nonresidential components. In order to ensure that the proposed residential space is developed prior to the completion of all the nonresidential project components, the Applicant has agreed to be bound by the following condition, which shall be included in each subsequent Zoning Commission Order granting a second-stage PUD approval:

   > The applicant may not obtain a certificate of occupancy for more than 1.57 million square feet of new and renovated office and retail space (whether matter-of-right or PUD approved) until it has obtained a certificate of occupancy for at least 200,000 square feet of residential space for the Northwest Residential Towers. After a certificate of occupancy for this minimum amount of residential use is issued, the applicant may obtain a certificate of occupancy for an additional 250,000 square feet of new and

renovated office and retail space. Thereafter, the applicant may not obtain a certificate of occupancy for any additional non-residential space (whether matter-of-right or PUD approved), until it has obtained a certificate of occupancy for an amount of residential space for the Northwest Residential Towers so as to bring the amount of occupied residential space in that building to at least 400,000 square feet.

However, nothing in this condition is intended to limit the Commission, as part of the first or second second-stage PUD order that approves the residential use, from specifying the timing of the residential and nonresidential uses that are approved in that order, as permitted in 11 DCMR § 2408.7.

8. The residential portion of the Project shall have a direct pedestrian connection to the reopened 4th Street.

9. The Project shall designate a minimum of 75,000 square feet of gross floor area for retail and service uses. Such floor area shall be located at the ground floor level along the entirety of the M Street frontage and on both sides of the reopened 4th Street from M Street to the northern property boundary, as generally depicted in the revised Sheet 15 of the PUD plans dated January 22, 2003. As part of the 75,000-square-foot requirement, so long as the neighborhood, (as shown on the Neighborhood Service Map set forth in Exhibit 121, is not served by a full-service grocery store at least 30,000 square feet in size, the Applicant will set aside a minimum of 30,000 square feet for a grocery store in the Project. The Applicant will use reasonable efforts to lease the space for grocery store use.

10. The Applicant shall construct a 25,000-square-foot landscaped public plaza around the escalator of the Metrorail station in general conformance with Exhibit 17.

11. The Applicant shall assume the responsibility to maintain the former federal land north of the PUD boundary (Square 499, Lot 57) as a public park amenity that remains after construction of the reopened 4th Street, S.W. The Applicant's obligation to maintain this parkland shall begin with the opening of 4th Street through the PUD Site and shall continue for the life of the PUD project.

12. Second-stage PUD applications shall reflect traffic mitigation measures recommended in the "4th Street SW Transportation Study" prepared by the District of Columbia Department of Transportation by DMJM+Harris, Inc., dated January 2003.

13. The Applicant shall execute the following agreements prior to the adoption of the final Zoning Commission Order of the first second-state PUD in this case:

    (a) A First-Source Employment Agreement with the Department of Employment Services; and

(b) A Memorandum of Understanding with the District of Columbia Local Business Opportunity Commission ("LBOC") to ensure minority vendor participation.

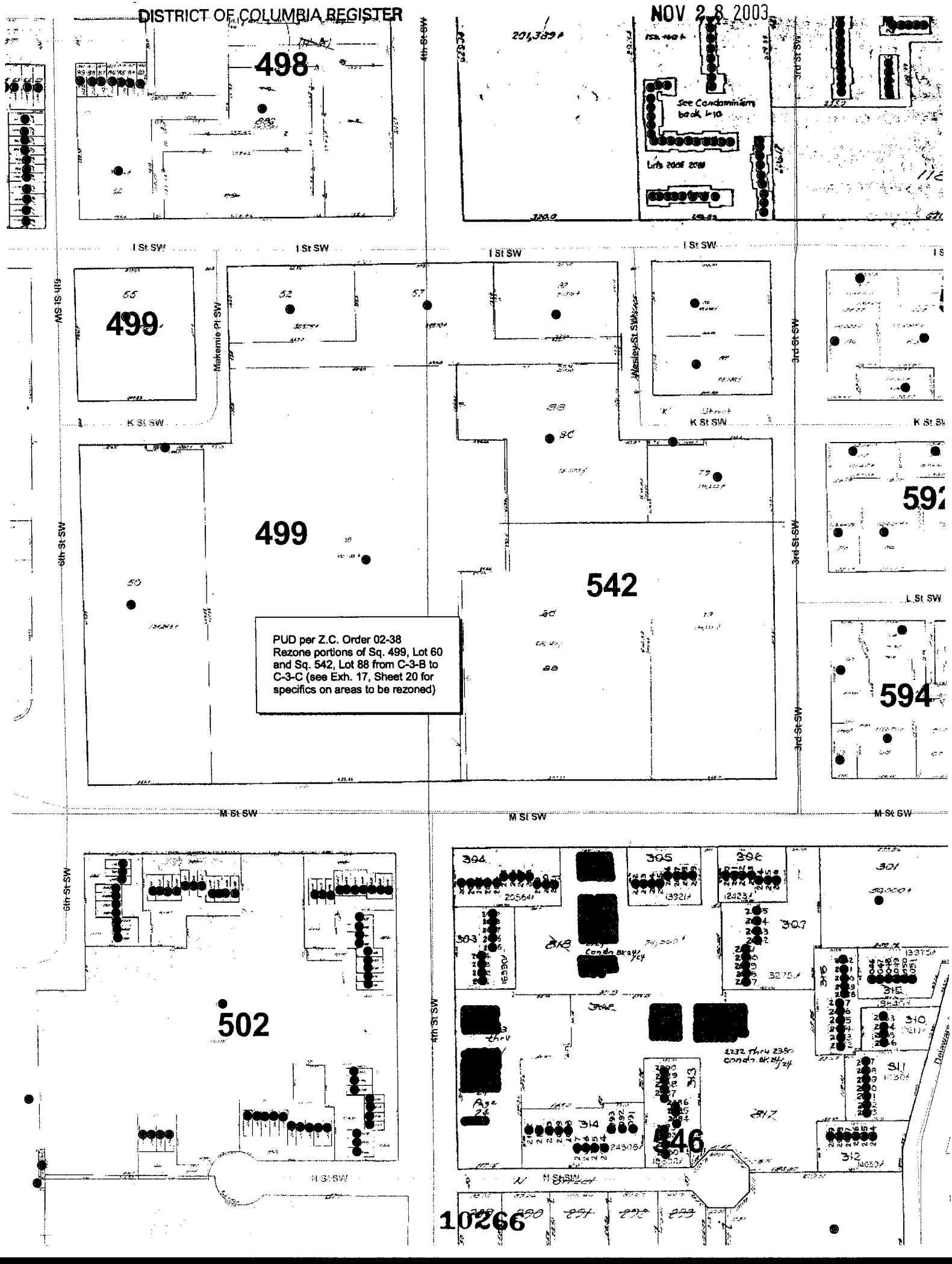
14. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (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 the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

15. On June 9, 2003, the Zoning Commission approved the applications by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, James H. Hannaham, and Peter G. May approved).

16. This order was adopted by the Zoning Commission at its public meeting held on July 31, 2003, by a vote of 5-0-0 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, James H. Hannaham, and Peter G. May adopted).

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 _____.

DISTRICT OF COLUMBIA REGISTER NOV 28 2003



ZONING COMMISSION ORDER NO. 02-45
Case No. 02-45
(First-Stage PUD – St Elizabeths)
May 1, 2003

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 6, 2003, to consider an application from the D.C. Department of Mental Health (the "Applicant"). The Application is for review and approval of the first-stage of a two-stage planned unit development ("PUD") and a related zoning map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed project involves the eventual demolition of the John Howard Forensic Pavilion and the construction of the new St. Elizabeths Hospital. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Application subject to the specified conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On October 22, 2002 the Applicant submitted an application to the Zoning Commission for the first-stage of a two-stage PUD and a related zoning map amendment from unzoned property to SP-1 in order to construct a new one- and two-story mental health facility. On November 18, 2002, the Commission decided to schedule a public hearing on the application.

2. The subject property (the "PUD Site") is a large site of approximately 49.4 acres at located at 2700 Martin Luther King Jr. Avenue ("MLK"), S.E., comprising the southeastern portion of the St. Elizabeths East campus, legally identified as Parcel 234, Lot 38.

3. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on December 20, 2002. The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commissions ("ANC") 8A and 8C.

4. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a PUD. The two-stage PUD process is appropriate in this case involving a large site with complex site planning,

transportation, and urban design issues. This first-stage order governs site planning, land use planning, traffic, general density, and similar broad issues. The second-stage PUD process will consist of reviews of more detailed plans and a determination of consistency with the intent and standards of this first-stage PUD order.

5. The parties in the case were the Applicant and Advisory Neighborhood Commission 8C.

6. The Zoning Commission held a public hearing on March 6, 2003.

The Site

7. The proposed PUD site is located on the southeastern part of the St. Elizabeths East Campus. It has access from MLK near Pecan Street and is also accessible from Alabama Avenue, S.E. The Property is irregular in shape and has substantial vacant and open areas together with the John Howard Forensic Pavilion and adjacent surface parking lot. This part of the St. Elizabeths campus was developed early in the twentieth century, so that much of the natural vegetation has been cleared over the years for the construction of buildings, streets, and roadways. The building site lies generally northeast of a deep ravine that bisects the East Campus of Saint Elizabeths Hospital. That ravine provides clear demarcation between the site and the remainder of the East Campus, and although it is included in the PUD area no development is proposed in the ravine itself. The ravine has heavy tree cover, and several additional trees are in scattered locations on the property. Lawn grass covers the open spaces between the existing buildings and the paved areas. Most of the site is vacant.

8. The only substantial existing building on the site is the John Howard Forensic Pavilion ("JHP"). JHP is an outdated and deteriorated brick, multi-story facility built in 1959. It currently houses St. Elizabeths' secure patient population. It occupies much of the northwest portion of the PUD Site and must remain in uninterrupted operation until completion of the new facility. This requirement effectively limits the site area available for new construction. JHP residents will be relocated to the new facility upon its completion and the JHP building will be demolished. An existing antenna tower in the triangular wooded area includes antennas that serve District of Columbia Police and Fire Departments as well as other District and Federal agencies.

9. The hospital anticipates continued use, at least in the short term, of three existing buildings (RMB, CT-7, and CT-8) while the overall facility census declines. All three buildings, and adjacent related parking areas, are outside the PUD area.

The Surrounding Area

10. The surrounding neighborhood includes the St. Elizabeths Hospital campus (both East and West Campuses), federal and highway property, and nearby residential

and commercial development in the Congress Heights, Douglass, and Shipley Terrace neighborhoods. The predominant surrounding land use context is the St. Elizabeths campus itself. The 336-acre campus is developed with institutional buildings, many of them historically designated, together with open spaces and trees. Martin Luther King Jr. Avenue, S.E., a major thoroughfare, bisects St. Elizabeths to form the approximately 173-acre East Campus and the approximately 163-acre West Campus.

11. The federal government deeded the East Campus to the District of Columbia government in 1987. The U.S. General Services Administration (GSA) is currently managing the disposition of the West Campus, which has been vacated by the U.S. Department of Health and Human Services. Metro's Green Line runs through the East Campus (underground). The Congress Heights Metro Station is located at the southeast perimeter of the property, and the Anacostia Metro Station is located north of the campus.

12. There are approximately 50 existing buildings situated on the East Campus. In addition to construction of the new hospital, a 10-acre site at the northern edge of the campus along MLK has been approved for construction of the District's Unified Communications Center ("UCC"). This project, sponsored by the D.C. Office of the Chief Technology Officer ("OCTO"), was recently zoned in conjunction with a Planned Unit Development ("PUD").

13. The site is bordered by an existing federal graveyard (located on St. Elizabeths property) to the northeast and by a group of Jewish cemeteries, including the Adas Israel Hebrew Congregational Cemetery, to the northwest. A wooded triangular area on the proposed site adjacent to the Jewish cemeteries contains several small, deteriorated buildings associated with an abandoned U.S. Navy radio facility. Farther east is Suitland Parkway, a four-lane expressway with federally-owned open space on either side. Alabama Avenue runs along the southern border of the PUD Site; it is zoned C-2-B and improved with commercial strip development. The adjacent residential neighborhood is developed with a mixed housing pattern, including garden and mid-rise apartments, as well as row, semi-detached, and detached dwellings. To the far north and northeast of the PUD Site is a moderate density residential area on either side of MLK. The residential areas described above are zoned R-5-A, a designation that allows the various types of residential development noted above. The proposed new hospital will continue to use the gated entrances to the campus from Alabama and MLK Avenues, and the existing driveway to approximately the point where the driveway reaches the PUD Site.

Existing and Proposed Zoning

14. The PUD site is unzoned property owned by the District of Columbia, described by zoning regulations as "not included in any zone district" but still subject to zoning requirements when "any change or expansion in the use of land or

buildings or any new construction" is contemplated. *See* 11 DCMR §§ 106.4, 106.5(a) and (b).

15. The Applicant requests SP-1 (Special Purpose – Medium-Density) zoning in conjunction with this PUD. This zone will readily accommodate the height and bulk of the proposed mental health hospital even under matter-of-right standards of 4.0 FAR and 65 feet. However, the Applicant has elected to pursue the planned unit development approach, which provides beneficial site planning and design flexibility, while allowing the Zoning Commission, the Office of Planning, and community groups to review the plans and affect the actual development that is built. In conjunction with a PUD, the SP-1 District allows a building height of up to 75 feet and a density of up to 4.5 FAR. 11 DCMR §§ 2405.1 and 2405.2.

16. The zoning classifications of areas surrounding the PUD site include R-5-A for the residential areas and C-2-B for areas improved for commercial use.

The PUD Project

17. The Applicant intends to construct a new hospital building on the subject property, to be known as the St. Elizabeths Hospital Building. The new 292-bed hospital will consist of a one- and two-story building that will provide mental health services for non-secure and secure mental health patients. The existing John Howard Forensic Pavilion will be demolished after construction and occupancy of the new building. Numerous features of JHP are obsolete and substandard in terms of care and rehabilitation of the mentally ill. The demolition will also create more open space, allow more light to reach the new building, and alleviate the increasing maintenance costs for the severely deteriorated John Howard building.

18. The existing, winding roadway from Alabama Avenue, S.E., will continue to provide vehicular access to the site. The site plan provides a setback and visual buffer to the new building from the arrival point where the access road crosses the ravine. Higher security functions and their access points are located farther from the site entry and are visually shielded by other functions and landscape. Parking areas are located to maximize green space in front of the building and to maintain views from the building across the ravine toward the remainder of the campus. The parking area and associated landscape are also used to buffer the existing secure yard (surrounded by a high wall) associated with the secure component.

19. The three wings of the building are oriented to maximize privacy for residential areas and to take advantage of views across open space to the ravine from public spaces, office areas, and treatment areas. Necessary exterior walkways adjacent to the building will be developed with hardscape elements and plantings to structure exterior space for use by staff, visitors, and where appropriate, residents.

20. Organization and massing for this building type are, by necessity, functionally driven. The requirements for ongoing respectful observation of residents, the size

and requirements of treatment and residential groups, and the security needs of the facility significantly impact the building form. The need to balance the seemingly competing needs for observation vs. privacy, for security vs. respect for residents as individuals, and for freedom vs. control present a unique challenge. The desire to provide readily-accessible, readily-observable, secure green space at each residential unit is central to addressing this challenge. This requires that the vast majority of units have direct, on-grade access to the outside.

21. In general, the building massing reflects the functional organization of the facility. A one-story wing at the rear of the site houses secure functions. A two-story wing at the portion of the PUD Site nearest the site entry point contains non-secure patient care and residential functions at the entry level, as well as residential units, staff education, and medical library functions above. These two wings are connected by a two-story building element that includes public functions on the entry level (lobby, auditorium, food service) and shared functions on the upper level. A partial lower level includes engineering and limited building support functions.

22. Separate pedestrian entries, vehicular drop-off points, and building lobbies are provided for the secure and non-secure sides of the complex. Shared functions will be accessed through the non-secure arrival point. Pedestrian and vehicular access through the secured perimeter associated with the secure functions is tightly controlled. Service and deliveries to the building will be accommodated at a service yard located between the secure wing and the shared services wing.

23. Parking is provided on grade. The majority of parking will be located approximately at the location of the existing John Howard Pavilion. This will require phased completion of the new parking after completion of the majority of the project and temporary use of other existing parking on the East Campus. The main parking area is oriented to allow pedestrian circulation along the aisles and ready supervision of the parking areas. A limited amount of dedicated parking may be provided closer to the building entrances.

Public Benefits of the PUD

24. The following public benefits and amenities will be created as a result of the PUD project:

    a. ***Major District of Columbia Initiative - High-Quality Mental Health Services.*** The new, state-of-the-art hospital building will represent a major advance in the care and treatment of mentally ill persons in the District of Columbia. This is a major District of Columbia and federal government policy initiative that will substantially alleviate and overcome problems in mental health service delivery that led to a period of years in which the District's mental health services were under court supervision. The new hospital is functionally designed to meet the special needs of

secure patients as well as non-secure patients and to provide an excellent environment for caregivers and visitors. The physical and social environment will be more conducive to patient recovery than the existing JHP facility, and for many will provide a better transitional environment for a return to a normal lifestyle in the community. The Department of Mental Health is committed to achieving a superior level of service that is consistent with the distinguished history of St. Elizabeths as the nation's first, and for many years foremost, mental health treatment facility. The funding has been secured to make this high-priority project a reality.

b. ***No Adverse Effect on Neighborhood or Public Facilities.*** The proposed redevelopment will prevent the numerous negative effects that could impair mental health service provision and neighborhood and campus development if the existing John Howard Forensic Pavilion were allowed to deteriorate further. The site is currently served by all major utilities, and the increased use of water and sanitary services will have a negligible effect on the District's delivery systems.

c. ***St. Elizabeths Framework Plan.*** For a number of years the District's mental health services were operating under Court supervision and orders. Recently, the Department of Mental Health has been able to make the improvements needed to return to independence from court orders. Although previous court rulings remain in effect, the Receivership has been vacated and the Department is now proceeding with orders for "Exit Criteria" that must be met before the original 1974 lawsuit can be fully dismissed. It is essential for the District to spend appropriated federal dollars expeditiously so as to remain in compliance with court-ordered requirements. Thus, the project must proceed before a framework plan for St. Elizabeths has been completed. However, the Department of Mental Health is committed to and actually financing the framework plan. The Office of Planning ("OP") is the lead agency on the plan, and DMH is continuing its close consultation with OP and its consultants as the process moves forward. This is a two-stage PUD, allowing several months of time for coordinating site planning and preliminary design matters with the planning team prior to submission of the specific architectural design to the Zoning Commission for approval of the second stage of the PUD application. The Applicant believes that this extended period of time will enable a high degree of planning coordination and compatibility with the framework plan to occur.

Relationship to Comprehensive Plan

25. This first stage PUD approval will not be inconsistent with the Comprehensive Plan:

a. ***Comprehensive Plan: Compliance with Major Themes.*** The proposed new hospital complex exemplifies many of the 10 Major Themes set forth in the Comprehensive Plan in § 101.1[1], including:

- "Stabilizing and improving the District's neighborhoods;"
- "Preserving and promoting [cultural and] natural amenities;"
- "Respecting and improving the physical character of the District;"
- "Promoting enhanced public safety;" and
- "Providing for diversity and overall social responsibilities."

b. ***Comprehensive Plan: Public Facilities Element.*** The *Comprehensive Plan* lists improvement of public facilities as one of its major goals, including the provision of "adequate and energy-efficient public facilities in good condition to support the cost-effective delivery of municipal programs and services . . ." § 601. One of the main objectives underlying this goal is "the construction, rehabilitation, and maintenance of facilities essential for public service delivery." § 602.1

c. ***Comprehensive Plan: Land Use Element.*** The Generalized Land Use Map of the Land Use Element designated the East Campus of St. Elizabeths Hospital for "Local Public Facilities." This is defined as, "Land and facilities occupied by the District of Columbia government . . ." The proposed new St. Elizabeths Hospital Building is a District of Columbia government facility directly consistent with this land use policy and an efficient use of existing government-owned property.

d. ***Comprehensive Plan: Ward 8 Element.*** This project is true to the focus of the Ward 8 plan, which recommends that the District "[g]ive priority to upgrading existing public services and facilities." § 1901.1. The Ward plan specifically calls for the District to "[e]nsure that new development in the Saint Elizabeth Hospital Treatment Area is compatible, in terms of its use, design, scale, circulation and landscaping, with the mental health treatment activities housed at the hospital while contributing to the economic revitalization of Ward 8." § 1930.1(e).

Report of the Office of Planning

26. By report dated February 24, 2003 and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. The report

[1] Citations are from the codified version of the Comprehensive Plan in 10 DCMR (1999).

states, "[t]he application is consistent with the requirements of the Zoning Regulations and elements of the Comprehensive Plan." The report favorably noted the public benefits and amenities of the new hospital and its minimal impacts on the surrounding neighborhood. The new hospital's preservation of open space, urban design, and pedestrian accessibility were emphasized as important public benefits.

Report of Advisory Neighborhood Commission 8C

27. Mary Cuthbert of ANC 8C testified at the March 6th public hearing but stated that she had not been authorized to represent the ANC as a whole. She testified that the announcement of the public hearing initially was sent to ANC 8A and that internal problems at ANC 8C prevented the Applicant from presenting the plans at the March 5th ANC meeting. Ms. Cuthbert further stated that St. Elizabeths Hospital representatives met with other people in the community but did not contact ANC 8C. Ms. Cuthbert stated that the community as a whole is pleased with the hospital but has concerns about the structure and location of the proposed development.

28. Chair Mitten agreed to hold the record open until April 23rd to allow the Applicant to present its proposal at the April 3rd ANC 8C meeting, and for the ANC to submit a report. No report was filed by ANC 8C prior to the April 23rd closing of the record.

Testimony in Opposition

29. Several residents in the vicinity expressed opposition to the PUD based upon their belief that the Applicant planned residential housing for the site and that the proposed hospital would not be large enough for the patient population. All of the opponents stated that they supported the hospital and wanted to see it continue to provide mental health services to D.C. residents.

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 two-stage PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning

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 this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that 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 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. The height and density will not cause an adverse effect on nearby properties and will, in fact, include less density on the PUD Site than is permitted as a matter of right. The proposed mixed-use development is appropriate on this site, which is well served by a major arterial street, bus lines, and an on-site Metrorail station.

6. First-stage approval of this PUD and the proposed SP-1 zoning is not inconsistent with the Comprehensive Plan including the designation of the site for Local Public Facilities development in the Generalized Land Use Map of the Land Use Element.

7. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission acknowledges and responds to ANC 8C as follows:

   a. The Commission finds that the Applicant gave a presentation at the April 3rd ANC 8C meeting and responded to questions and concerns expressed by the ANC.

   b. The Commission finds that ANC 8C has not submitted a formal report as of the April 23rd closing of the record.

8. First-stage approval of the PUD Application 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 Zoning Map of the District of Columbia.

9. The Application 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 herein, the Zoning Commission orders **APPROVAL** of the Applications for first-stage review of a Planned Unit Development and for a Zoning Map amendment from unzoned to SP-1 for indicated

parts of the property located at 2700 Martin Luther King Avenue ("MLK") S.E., comprising the southeastern portion of the St. Elizabeths East Campus, legally identified as Parcel 234, Lot 38. This approval is subject to the following guidelines, conditions and standards:

1. The final design of PUD shall be developed in accordance with the site plan and preliminary architectural and landscape plans submitted as Exhibit 30 in the record of this case, and as modified by the guidelines, conditions, and standards of this Order.

2. The project shall include the demolition of the existing, John Howard Pavilion hospital and construction of a new facility, together with public spaces, generally as depicted in the preliminary plans submitted in this first-stage application.

3. The Applicant shall submit with the second-stage application detailed plans and elevations indicating the design treatment of the proposed PUD project, including but not limited to building and landscape materials, color, architectural and landscape details, and zoning data as required for a second-stage PUD application.

4. The PUD Site shall be zoned SP-1, encompassing a land area of 2,151,864 square feet (49.4 acres) as depicted in Exhibit 30 of the record.

5. The Applicant shall execute the following agreements prior to the adoption of the final Zoning Commission order of the initial second-stage PUD in this case:

   (a) A First-Source Employment Agreement with the Department of Employment Services; and

   (b) A Memorandum of Understanding with the District of Columbia Office of Local Business Development ("LSDBE") to ensure minority vendor participation.

6. This first-stage PUD approval by the Zoning Commission shall be valid for a period of one (1) year from the effective date of this order. Within such time, the Applicant shall file the second-stage PUD application in order for this first-stage application to remain in effect.

7. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, 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 the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

8. The second-stage PUD application shall include an interim parking plan describing the phased completion of the new parking and temporary use of existing parking on the East Campus during construction.

9. The second-stage PUD application will include a proposed pedestrian route from the new hospital to the Congress Heights Metrorail station. The Applicant will also provide a status report on when the gate between the station area and the St. Elizabeths campus will be opened.

At its public meeting of May 12, 2003, the Zoning Commission took proposed action to approve the application by a vote of 5-0-0 (Anthony J. Hood, Carol J. Mitten, John G. Parsons, Peter G. May, and James H. Hannaham approved).

The Zoning Commission took final action to approve the application on June 9, 2003, by a vote of 5-0-0 (Anthony J. Hood, John G. Parsons, Carol J. Mitten, Peter G. May, and James H. Hannaham approved).

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 _____.

DISTRICT OF COLUMBIA REGISTER

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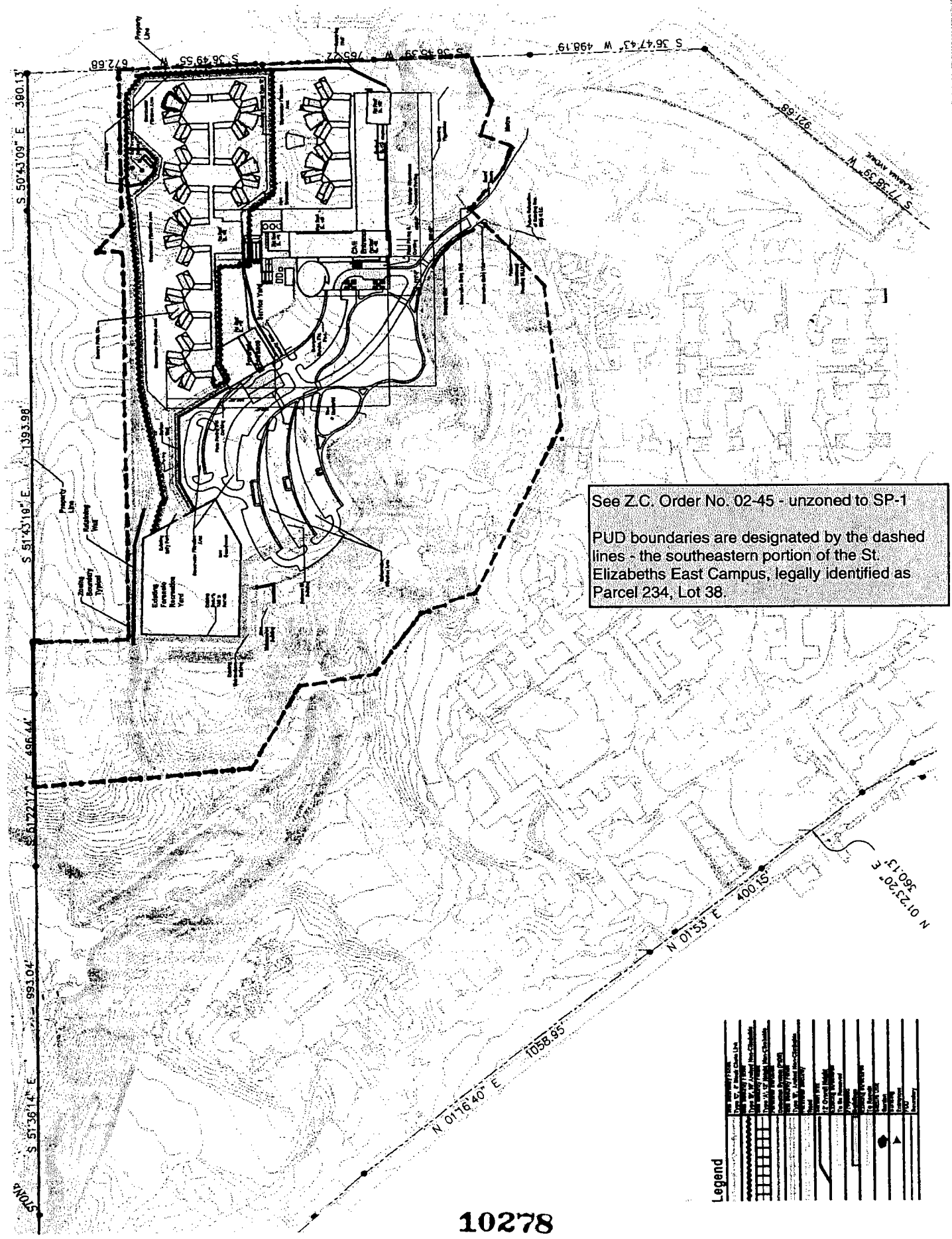
SITE PLAN



SAINT ELIZABETHS HOSPITAL NEW BUILDING

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