Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Sharon S. Schellin
Acting Secretary to the Zoning Commission

DATE: August 9, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on August 12th & 19th, 2005:

1. Z.C. Notice of Public Hearing (Case No. 05-20); and 12th
2. Z.C. Order No. 05-03 (Case No. 05-03). 19th

Attachments

[redacted]
CASE NO. 05-03
EXHIBIT NO. 29

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ZONING COMMISSION ORDER NO. 05-03
Z.C. CASE NO. 05-03
Consolidated Planned Unit Development and Related Map Amendment for Property Located at 1800 Block Martin Luther King, Jr. Avenue, S.E.
(Site of the Anacostia Gateway Government Center)
Parcel 224/31, Square 5600, Lot 17, Square 5601, Lots 54, 858, 859, 860 and part of 857
July 25, 2005

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on June 23, 2005, to consider applications from the District of Columbia Office of Property Management, for consolidated review and approval of a planned unit development and related zoning map amendment from property zoned C-M-1, C-3-A and R-3 to the C-3-A District. The Commission considered the applications pursuant to Chapters 24 and 30 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications.

FINDINGS OF FACT

The Applications, Parties, and Hearing

1. On February 8, 2005, the Office of Property Management for the District of Columbia (the "Applicant") filed an application with the Commission to amend the Zoning Map from C-M-1, C-3-A and R-3 to the C-3-A District and an application for consolidated review and approval of a planned unit development ("PUD") for Parcel 224/31; Lot 17 in Square 5600; and Lots 54, 858, 859, 860 and part of 857 in Square 5601; and the various portions of the alleys and streets proposed to be closed which currently run through, between, and along Squares 5601 and 5600.

2. After proper notice, the Commission held a hearing on the applications on June 23, 2005. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 8A, the ANC within which the property is located.

3. There were no parties in opposition. The record contained two (2) letters of support. By letter dated June 15, 2005, Marion Barry, Councilmember for Ward 8, expressed his support for the project. By letter dated May 27, 2005, Reverend Willie Wilson expressed support for the PUD. Albert Hopkins representing the Anacostia Economic Development Corporation ("AEDC,") the developer of the adjoining property testified in support of the application.

4. ANC 8A submitted a report dated June 8, 2005, indicating its support for approval of the applications.

5. At the June 23, 2005, hearing, the Zoning Commission took proposed action by a vote of 4-0-1 to approve, with conditions, the applications and plans that were submitted to the record.

6. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") for a thirty-day period of review as required by the District Charter. In order to accommodate this review period, this application was not scheduled for final action until July 25, 2005. NCPC, by letter dated June 29, 2005, indicated that it would be unable to consider the matter by that date.

7. The Commission, therefore, proceeded with final action as scheduled and approved the applications.

The PUD Project

8. The PUD proposes the construction of an office building with two (2) building components (a main building [the "MLK Wing"] and a smaller extension [the "Good Hope Wing"]) having a combined gross floor area of approximately 335,270 square feet, a cellar of approximately 14,835 square feet, and two (2) levels of underground parking. The PUD will have an approximate density of 2.93 FAR and a maximum height of eighty (80) feet for the MLK Wing, with the height of the eastern portion of the building stepped down to approximately forty-four (44) feet. The Good Hope Wing located at the southeast corner of the site will have a height of approximately forty-four (44) feet. The primary occupant of the building will be the District Department of Transportation ("DDOT"); retail and service uses will also occupy space within the building.

9. The proposed PUD is located at Parcel 224/31, Lot 17 in Square 5600, and Lots 54, 857 (part of), 858, 859, and 860 in Square 5601 and the various portions of the alleys and streets proposed to be closed which currently run through, between, and along Squares 5601 and 5600. The site is oddly shaped and contains approximately 114,312 square feet of land area. The site is within three (3) different zoning districts: approximately 26,266 square feet of the site is in the C-M-1 District, approximately 45,596 square feet is within the C-3-A District, and approximately 42,440 square feet is within the R-3 District.

10. The surrounding area is characterized by a mixture of residential and commercial uses. To the north of the site are the ramps to and from the Anacostia River Bridges. To the east are 13th Street, the 13th Street on-ramp to the bridge, and a residential community. The western boundary of the site runs along Martin Luther King, Jr., Avenue, as well as adjacent to the property to be developed by the AEDC. The AEDC property is zoned

C-3-A and currently proposed for future commercial office and retail development. The southern side of the site is across the street from the commercial area along Good Hope Road.

11. The site is located approximately one-half mile from the entrance to the Anacostia Metrorail Station, approximately 600 feet from a proposed stop along the future Light Rail, and less than one block from three (3) different Metrobus stops. The Generalized Land Use Map of the Comprehensive Plan designates the Site as moderate density commercial, and the Policies Map designates it as within a New or Upgraded Multi-Neighborhood Commercial Center.

12. The PUD regulations require a site in the C-3-A District to contain a minimum of 15,000 square feet of land area. The total land area of the entire PUD site is 114,302 square feet, and thus meets the minimum area requirements for a PUD.

Matter of Right Development Under Existing Zoning

13. Approximately forty percent (40%) (45,596 square feet) of the site is zoned C-3-A. The C-3 Districts are designed to accommodate major business and employment centers supplementary to the C-4 District (11 DCMR § 740.1) with medium density development in the C-3-A. 11 DCMR § 740.4. The C-3-A District permits a maximum height of sixty-five (65) feet, with no limit on the number of stories, and a maximum density of 4.5 FAR, of which no more than 2.5 may be commercial. 11 DCMR §§ 770.1, 771.2. An office building in the C-3-A District is permitted as a matter-of-right, and parking is required at a rate of one space for each additional 600 square feet of gross floor area and cellar floor area in excess of 2,000 square feet. 11 DCMR § 2101.1. Commercial development of approximately 113,990 square feet is permitted as a matter-of-right on this portion of the site. A PUD in the C-3-A District may have a maximum height of ninety (90) feet (subject to the 1910 Height Act), with no limit on the number of stories, and a maximum density of 3.0 FAR for commercial use. 11 DCMR §§ 2405.1, 2405.2.

14. Approximately twenty-three percent (23%) (26,266 square feet) of the Site is zoned C-M-1. C-M Districts are intended to provide for heavy commercial and light industrial activities employing large numbers of people. 11 DCMR § 800.1. The C-M-1 District permits a maximum height of forty (40) feet and three (3) stories. 11 DCMR § 840.2. The maximum permitted density in the C-M-1 District is 3.0 FAR. 11 DCMR § 841.1. Commercial development of approximately 78,798 square feet is permitted as a matter-of-right on this portion of the site. A PUD in the C-M-1 District may have a maximum height of sixty (60) feet and a maximum density of 3.0 FAR. 11 DCMR §§ 2405.1, 2405.2.

15. Approximately thirty-seven percent (37%) (42,440 square feet) of the site is zoned R-3. The R-3 District is designed essentially for row dwellings, but includes those areas within

which row dwellings are mingled with one-family detached and semi-detached dwellings. 11 DCMR § 320.1. The R-3 District permits a maximum height of forty (40) feet, with a limit of three (3) stories. 11 DCMR § 400.1. The Zoning Regulations do not prescribe a maximum density in the R-3 District. The maximum lot occupancy for row dwellings, churches or public schools is sixty percent (60%); for all other structures, the maximum is forty percent (40%). 11 DCMR §§ 402.4, 403.2. A PUD in the R-3 District may have a maximum height of forty (40) feet and a maximum density of 0.6 FAR devoted entirely to residential use. 11 DCMR §§ 2405.1, 2405.2.

Matter of Right Development Under Proposed Zoning

16. Under the proposed PUD, the zoning of the entire site would become C-3-A. The C-3-A District permits a maximum height of sixty-five (65) feet, with no limit on the number of stories, and a maximum density of 2.5 FAR. 11 DCMR §§ 770.1, 770.2. Under the PUD guidelines for the C-3-A District, the maximum height is ninety (90) feet and the maximum density is 3.0 FAR. 11 DCMR §§ 2405.1, 2405.2. Parking is required for an office building in the C-3-A District at a rate of one parking space for each 600 square feet of gross floor and cellar area in excess of 2,000 square feet. 11 DCMR § 2101.1.

Development Flexibility and Incentives

17. The Applicant requested flexibility from the following requirements:

    a. *Parking.* The Applicant requested flexibility to reduce the number of required parking spaces. The Zoning Regulations require 581 parking spaces and the Applicant requested to provide 436 spaces, a twenty-five percent (25%) reduction. The Applicant presented evidence that only 384 parking spaces will be needed for DDOT's employees, contractors, and visitors. The building has a low occupancy ratio that is approximately three (3) times lower than the typical occupancy ratio. A reduction in the parking is appropriate in this circumstance and will not adversely affect the surrounding community, as set forth in the report of Wells and Associates, the Applicant's traffic consultant.

    b. *Roof Structures.* The Applicant requested flexibility from the requirements of §§ 411 and 770.6 that the roof structures be setback from all exterior walls at a 1:1 ratio and that the enclosure is not of equal heights. The enclosure is not setback the required eighteen (18) feet on the south and west sides. On the west side the setback is 16.5 feet and on the south side the setback is 16.5 and 9.3 feet. The flexibility is required due to the building's shape and location of the skylights that provide direct light to the atrium on the first floor. The enclosure is of unequal height to reduce the massing of the enclosure. The proposed flexibility will not diminish the intent of the requirements to provide uniformity of the structure and reduce the impact of the perceived height of the building.

c. *Side Yard.* The Applicant requested flexibility from the requirements of § 775.5 that, if a side yard is provided, it shall be at least two (2) inches for every foot of height of the building. The height of the building is eighty (80) feet and therefore a side yard of 13.3 feet would be required. The design of the building provides a side yard of 7.2 feet along Good Hope Road. The side yard is reduced in order to provide continuity along Good Hope Road by matching the setback of the proposed AEDC building allowing for adequate pedestrian passage, additional landscaping and facilitating access and visibility of the ground floor retail uses along Good Hope Road.

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

a. *Urban Design, Architecture, Landscaping, and Open Space.* The Applicant has presented an exceptional and appropriate architectural design for the project. The Anacostia Gateway Government Center will provide a strong civic image from both within the community and from across the river; it will be a symbolic gateway to the rejuvenated Anacostia community, and will serve as a transition to the historic district of Old Anacostia. The proposed government center has undergone extensive review with regard to its design and architecture and has received favorable recommendations from NCPC and the Commission of Fine Arts.

The Project will include enhancements to the existing streetscape with plans for improvements along Martin Luther King Avenue, 13th Street, and Good Hope Road. The streetscape concept transitions from civic to urban to residential as one moves around the site. The Martin Luther King, Jr. Avenue streetscape is a civic space, a semi-circular paved plaza. The Good Hope Road streetscape is urban, matching the look of main street Anacostia. The 13th Street streetscape is more landscaped and park-like to complement its residential neighbors across the street.

b. *Transportation Features.* The off-street parking provided, as discussed in the Traffic Report, far exceeds the requirements of the proposed tenant, the Department of Transportation. Further, the parking will be provided in a below-grade garage. The project offers several transportation management measures and will not significantly impact the traffic situation for the area. The project is located near three Metrobus stops and is approximately one-half mile from the Anacostia Metrorail Station and only 600 feet from a proposed stop of the future Light Rail. This proximity results in a significant proportion of site trips being made by mass transit or other non-passenger car modes. Furthermore, DDOT will encourage its staff to make use of the many available public transportation options.

In response to community comments, the circulation plan of the project has been modified so that the main access to the garage and loading area will be from the east-west service road through the interior of the project.

The PUD site has excellent access to I-295 and other major roadways. The development has also been designed with two (2) entrances and exits to the parking garage. In addition there are three (3) points to access the alley leading to the garage entrance, functioning to improve access to the property and vehicular movement on the surrounding street system.

c. *Environmental Benefits.* The Applicant is committed to making the AGGC a LEED "Silver" certified, energy efficient and environmentally friendly building.

d. *Special Value to the Neighborhood.* Visitor parking, customer service areas and the public outreach portion of DDOT's role in the community are just some of the project's connectivity to the general public. The public outreach sections are to be accessible for the distribution of child safety seats, school transit passes, maps and other public interface activities.

The project adds special value to the neighborhood by providing 5,250 square feet of retail space on the ground floor of the AGGC. Additional retail space will be provided on the ground floor of the AEDC building due in large part to the efforts of the Applicant.

e. *Employment and Training Opportunities.* The Applicant is committed to participating in a First Source Agreement with the DC Department of Employment Services and will obtain a Memorandum of Understanding.

f. *Other Public Benefits and Project Amenities.* The project provides for economic development in an area designated as a New or Upgraded Multi-Neighborhood Commercial Center and is described by the Comprehensive Plan as "in critical need of economic development." The Applicant's proposal to locate a major office building for use by a D.C. Agency and provide retail opportunities in this area of the City will give a much needed boost to the economic development of the area. In addition to bringing economic development and opportunity, the Anacostia Gateway Government Center will bring government services closer to the people it serves in Ward 8.

The Project calls for a day care center for approximately twenty-five (25) children, an employee changing room and bicycle racks.

The Applicant will enter into a Construction Management Plan with the community in an effort to minimize any potential adverse impacts resulting from the construction of the Project.

19. The proposed PUD advances the purposes of the Comprehensive Plan, is consistent with the Generalized Land Use Map, and furthers and complies with the major themes and elements for the District and Ward 8 in the Comprehensive Plan. The project significantly advances these purposes by promoting the social, physical, and economic development of the District through the provision of quality commercial development that will enhance the built environment.

20. The PUD is also consistent with many of the Comprehensive Plan's major themes, as follows:

    a. *Stabilizing and Improving the District's Neighborhood.* The proposed PUD will stabilize and improve commercial character of the neighborhood.

    b. *Respecting and Improving the Physical Character of the District.* The proposed PUD respects and improves the physical character of the District through the construction of a well-planned and carefully designed development. The PUD has an exceptional design that will significantly enhance the prominence of the Martin Luther King, Jr. Avenue and Good Hope Road commercial area and will complement the neighboring historic district.

    c. *Reaffirming and Strengthening District's Role as an Economic Hub.* The Comprehensive Plan encourages maximum use of the District's location for both private and public growth to promote economic development. The government center provides additional jobs to strengthen the economic health of this area. The Comprehensive Plan encourages making maximum use of the District's location at the center of the region's radial Metrorail and commuter rail systems. 10 DCMR §1-09.1(b). The Project takes advantage of this asset by its location along major Metrobus routes and its proximity to the Anacostia Metrorail station and the future Light Rail system.

    d. *Preserving and Ensuring Community Input.* The Comprehensive Plan also encourages the active involvement and input of local communities. For more than eighteen (18) months, the Applicant has worked with the Office of Planning in an effort to gather community input on the project and modify the design of the project to address community concerns.

21. The Project also furthers the specific objectives and policies of many of the Comprehensive Plan's major elements as follows:

a. *Economic Development Element.* According to the Economic Development Element of the Comprehensive Plan, the District places a high priority on the generation of new and productive uses of currently underused commercially- and industrially-zoned land. 10 DCMR § 200.10. The proposed PUD will dramatically improve upon the vacant parcels along Martin Luther King, Jr., Avenue and Good Hope Road. Another priority of the Economic Development Element is stimulating and facilitating a variety of commercial, retail, and residential development investments appropriate to selected Metrorail station areas outside of the Central Employment Area, consistent with the Land Use element and ward plans, with sensitivity to the surrounding area. 10 DCMR § 204.2(m). The PUD provides commercial development outside of the Central Employment Area that will maintain a significant number of jobs.

The objective of economic development outside of the Central Employment Area is to create and expand economic activity and employment centers. 10 DCMR 206.1 In support of such objective, it is a policy to support appropriate development of the Martin Luther King, Jr. Avenue corridor. 10 DCMR 206.2(b). The project furthers these objectives by locating a major office development with a retail component in this area.

b. *Urban Design Element.* The Urban Design Element expresses the District's goal to promote the protection, enhancement, and enjoyment of the natural environs and to promote a built environment that serves as a complement to the natural environment, provides visual orientation, enhances the District's aesthetic qualities, emphasizes neighborhood identities, and is functionally efficient. 10 DCMR § 701.1. The Urban Design Element also has an objective of encouraging new construction in areas with vacant or underused land or structures in order to create a strong, positive physical identity. 10 DCMR § 712.1. The proposed PUD has been designed to enhance the physical character of the area and complement the materials, height, scale, and massing of the surrounding development. 10 DCMR § 708.2. The proposed PUD will enhance the commercial quality of the area through superior design elements that respect the special character of this prominent commercial corridor. The design is respectful of the local architecture and will serve as a compliment to Historic Anacostia. It is the goal of the District to "encourage new development within areas of strong architectural character to contribute to the physical identity and character of the area." 10 DCMR 710.2(d). The proposed project will provide a distinguished design that provides a rich and vibrant texture to this prominent gateway and enhances the vibrancy of this commercial corridor. The streetscape objective of this element is to establish a clear classification of streets and sidewalks that is functionally efficient and visually coherent, enhances the pedestrian environment, and provides for the orderly movement of goods and services. 10 DCMR § 709.1.

c. *Environmental Protection Element.* It is the goal of the District to "protect the environment, to resist threats to its overall quality, and to act to maintain and enhance its positive features in the interest of residents, workers and visitors...." 10 DCMR § 401.1. The Applicant is committed to obtain LEED silver certification, creating a building that is energy efficient and environmentally friendly. DDOT, the major tenant of the proposed office building, will encourage and foster the use of public transportation by its employees.

d. *Transportation Element.* It is the goal of the District to "[p]romote the increased use of mass transit, in the District and the region." 10 DCMR § 503.2(c). Development of the project at the present site along major Metrobus routes and within close proximity to the Anacostia Metrorail Station and the future Light Rail will promote and stimulate the use of existing mass transit service. The goal of Comprehensive Plan's transportation element is to provide for the efficient movement of people and goods within the District and its metropolitan area. See 10 DCMR § 500.2. The policies established in support of the general transportation objectives include supporting land use arrangements that simplify and economize transportation services. 10 DCMR § 502.1(a). The location of the project along major Metrobus routes and near the Anacostia Metrorail Station and future Light Rail furthers this goal. DDOT plans to encourage the use of public transit by its staff.

e. *Land Use Element.* It is the goal of the District to "promote appropriate commercial development, including centers for retail and office uses, to serve the needs of the economy of the District and its neighborhoods...." 10 DCMR § 1108.1(a). The project responds to this goal by providing a moderate density commercial office structure of superior design that will foster the continued growth of the District's economy and employment base and serve as a landmark to this focal point for the Anacostia Gateway and commercial corridor.

22. The project also fulfills and furthers the specific objectives for this area, as set forth in the Comprehensive Plan for Ward 8:

a. *Ward 8 Economic Development.* The Ward 8 Element states that "increased economic development is a particularly critical need." 10 DCMR § 1904.1. Less than two percent (2%) of the land area in Ward 8 is devoted to commercial uses. 10 DCMR § 1904.3. Ward 8 offers fewer commercial services to its residents than any other ward in the city. The proposed PUD contributes needed economic development to Ward 8 by establishing a premier office building and developing new retail space in this location.

b. *Ward 8 Urban Design Element.* The Ward 8 Urban Design Element encourages new development in areas with vacant or under used land to secure a strong, positive, physical identity, and the coordination and strengthening of the design

function and image of commercial corridors that serve neighborhoods. 10 DCMR 1920.1(g). The project furthers these goals. The project brings new development to an underutilized area with a promising future. The project has been designed to enhance the physical character of the area and complement the materials, height, scale and massing of the nearby moderate density commercial uses and the established moderate density residential community to the east.

c. *Ward 8 Land Use Element.* The Land Use Element for Ward 8 encourages renovating or replacing blighted or unused properties to remove actual or potential locations for illegal drug activity and to increase the amount of commercial development in ways that minimize adverse impacts on nearby residential neighborhoods. 10 DCMR 1928.14(a)(d). The Project advances these goals by: locating a premier office building in an underutilized area; improving the image of this commercial area, and; avoiding conflicts or negative impacts on the nearby community through use of an appropriate design and planning.

Housing Linkage

24. The Applicant requested that the Commission eliminate the housing linkage requirement set forth in § 2404 of the Zoning Regulations. Subsection 2404.4 (d) authorizes a reduction or elimination of the requirement if:

(1) The property is located in an area classified in the Generalized Land Use Map of the Comprehensive Plan as a Development Opportunity Area, a Production and Technical Employment Area, or a New or Upgraded Commercial Center; and

(2) The Commission finds, after public hearing, that the reduced or eliminated housing requirement is necessitated or justified by the PUD's provision of other public benefits that are of exceptional merit and in the best interests of the city or the country.

25. The PUD is within an area designated as a new or upgraded Multi-Neighborhood Commercial Center on the Generalized Land Use Map

26. The Commission finds that the PUD is providing other public benefits that are of exceptional merit and are in the best interests of the District, as described in Finding No. 18. The complete elimination of the housing linkage requirement is justified.

Office of Planning Report

27. By report dated June 13, 2005, and through testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the PUD application. OP noted that the proposed PUD is not inconsistent with the Comprehensive Plan. OP further noted that the proposal is consistent with the objectives and evaluations standards of a PUD.

OP stated that the PUD would be an asset to the community and the building will serve as a landmark at the entrance to the community. OP strongly supported approval of the PUD.

District Department of Transportation Report

28. By report dated June 16, 2005, the DDOT stated its strong support for the PUD.

Advisory Neighborhood Commission

29. By resolution dated June 8, 2005, dated ANC 8A unanimously supported the PUD project and map amendment rezoning the whole property to C-3-A.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of 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, bulk, and density standards of the Zoning Regulations. The size, scale, design, and use of the building are appropriate for this site and the civic nature of Martin Luther King Jr. Avenue. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable. As set forth in the Findings of Fact, the proposed development has been appropriately

designed to respect the nearby historic district and in terms of height and mass is complementary to the adjacent commercial and residential buildings.

6. The applications can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.

7. The number and quality of the project benefits and amenities offered are commensurate with the degree of flexibility granted for the development proposed on the site, including the requested reduction in parking and relief from the side yard and roof structure requirements. The PUD responds to both the surrounding commercial and residential buildings and the nearby historic district.

8. The elimination of the housing linkage requirement is justified because the PUD is within an area designated as a new or upgraded Multi-Neighborhood Commercial Center on the Generalized Land Use Map and the project benefits and amenities are of exceptional merit and are in the best interests of the City.

9. Approval of this PUD is appropriate, because the proposed development is consistent with the present character of the area.

10. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan.

11. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

12. The applications for a PUD and map amendment will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

13. The applications for a PUD and map amendment are subject to compliance with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended.

DECISION

In consideration of the Findings of Fact and the Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the applications for consolidated review of a planned unit development and PUD-related Zoning Map AMENDMENT for Parcel 224/31, Lot 17 in Square 5600 and Lots 54, 858, 859, 860 and part of 857 in Square 5601 and the various portions of the alleys and streets proposed to be closed which currently run through, between and along Squares 5601 and 5600 to the C-3-A District, subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed substantially in accordance with the plans prepared by Heery International, Inc., dated June 3, 2005, marked as Exhibit No. 15 of the record (the "Plans"), as modified by the guidelines, conditions, and standards herein.

2. The PUD shall be an office building with space for public functions and retail and service uses as shown on the submitted plans. The building shall contain approximately 350,105 square feet of gross floor area. The total project shall have an overall density of approximately 2.93 FAR.

3. The maximum height of the building shall be eighty (80) feet, as shown on the Plans. The building may include a roof structure with a height not to exceed 18.5 feet, as shown on the Plans.

4. The Project shall include a minimum of 436 parking spaces in the below-grade parking garage.

5. The Project shall include three thirty-foot deep loading berths and one twenty-foot deep service/delivery/loading space as shown on the Plans.

6. The Applicant shall include landscaping for the project as shown on the Plans. The Applicant or its successors shall maintain all landscaping.

7. Landscaping in the public space on the surrounding public streets shall be in accordance with the Plans, as approved by the Public Space Division of DDOT. The Applicant or its successors shall maintain all landscaping in the public space.

8. The Applicant shall have flexibility with the design of the PUD in the following areas:

    a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;

    b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;

    c. To make minor modifications to the exterior design, materials, and landscaping in response to the final review by the Commission of Fine Arts;

    d. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District

of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and

e. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below a minimum of 436 spaces.

9. No building permit shall be issued for this PUD and the PUD-related map amendment shall not become effective until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.

10. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

11. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.

12. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.

13. 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. 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.

On June 23, 2005, the Zoning Commission approved the applications by a vote of 4-0-1 (Anthony J. Hood, Gregory Jeffries, John G. Parsons, and Kevin Hildebrand to approve; Carol J. Mitten not voting, having recused herself).

The Order was adopted by the Zoning Commission at its public meeting on July 25, 2005, by a vote of _____.

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 _____.