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February 21, 2006

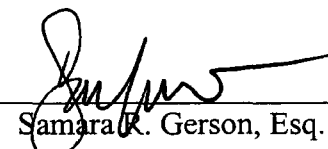
Sharon Schellin
Office of Zoning
Government of the District of Columbia
One Judiciary Square
441 4th Street, N.W.
Washington, DC 20001

Re: Zoning Commission Case No. 05-18 – 1020 Monroe Street, N.W., PUD

Dear Ms. Schellin:

Enclosed is one original and 20 copies of a proposed Zoning Commission order for the above referenced case. If you have any questions or concerns regarding this matter, please feel free to contact me at 202.530.7165.

Sincerely,
GRIFFIN & MURPHY, LLP

By: 
Samara R. Gerson, Esq.

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ZONING COMMISSION
District of Columbia
Case 05-18
CASE NO. 05-18
EXHIBIT 59

APPLICANT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

ZONING COMMISSION ORDER NO. _____
Case No. 05-18

**(Consolidated Planned Unit Development
for 1020 Monroe Street, N.W.)**

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Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on January 23, 2006, to consider an application from Hope 7, Inc. for consolidated review and approval of a Planned Unit Development ("PUD") (the "Application"). The Commission considered the Application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The Public Hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

FINDINGS OF FACT

The Application, Parties, and Hearing

- 1) On June 21, 2005, Hope 7 Inc., on behalf of Hope 7 Monroe Street Limited Partnership, (the "Applicant") filed an application to the Zoning Commission for the consolidated review and approval of a PUD for the subject property located at the southern corner of 11th Street and Monroe Street, N.W. and consisting of Lot 820 in Square 2840.
- 2) On July 11, 2005, the Zoning Commission decided to set down the application for hearing. After proper notice, the Zoning Commission opened the public hearing on November 21, 2006. The Zoning Commission decided to move the hearing date to January 23, 2006 so that the Applicant could incorporate a zoning map amendment to the Application. The parties in the case were the Applicant and ANC 1A, the boundaries of which include the PUD site.
- 3) 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, floor area ratio (FAR), lot occupancy, or yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the Board of Zoning Adjustment (BZA).
- 4) At the conclusion of the hearing on the PUD application on January 23, 2006, the Commission requested the submission of certain additional materials and information by the Applicant. The additional materials requested by the Commission at the hearing include the following:

- a) A detailed circulation plan;
- b) Samples of materials to be used in the project;
- c) Floor plans showing affordable housing units;
- d) Documents regarding affordable housing, such as an affordable housing agreement;
- e) Specified information regarding the monetary donations to the Harriet Tubman Elementary School and Keely's District Boxing and Youth Center, including when the contribution will be made and how the contribution will be spent; and
- f) Specified information regarding the lease of office space to ANC 1A.

The Site and the Area

- 5) The subject property consists of Lot 820 in Square 2840 and has a land area of approximately 11,910 square feet. The site is currently zoned C-2-A, low and medium commercial and residential development, which allows for a maximum density of 2.5 FAR and a maximum building height of 50 feet as a matter of right and 3.0 FAR and 65 feet with a PUD.
- 6) The PUD site is a slightly irregular trapezoid in shape. The subject property is situated in Ward 1 on the southeast corner of Monroe Street and 11th Street N.W. The subject property is located in the Columbia Heights neighborhood of Northwest Washington, DC and currently contains a four story mixed use building.
- 7) The Application requested a zone change from C-2-A to C-3-A as part of the Application because the proposed building exceeds the bulk limits of the C-2-A zone, although the proposed height of the building could be accomplished within the 65 foot height limit allowed in C-2-A with a PUD.
- 8) The surrounding land use context in this section of the Columbia Heights neighborhood is predominantly residential. The PUD site is located at the northernmost point of a C-2-A zone district that spans three blocks along 11th Street, N.W. The bulk of the area surrounding the PUD site is zoned R-4, and consists mainly of residential row houses. Nearby commercial districts are located at Georgia Avenue, N.W. to the east and 14th Street, N.W. to the west of the PUD site.
- 9) Public transportation serves the PUD site well, with Metrobus stops along Monroe Street and adjacent streets and within the Georgia Avenue/Petworth Metrorail stop located a few blocks northeast of the site and the Columbia Heights Metrorail stop located a few blocks southwest

of the site.

The PUD Project

- 10) The renovated condominium building, known as The Sage, will have seven ground-floor commercial units and 28 residential units, including 7 one-bedroom units, 19 two-bedroom units, and 2 three-bedroom units. The height of the proposed building is six stories and 64 feet. The gross floor area as designated is 46,038, which equals a floor area ratio (FAR) of 3.85 on the lot area of 11,910 square feet. Lot occupancy of the existing building is 76%, and the Applicant does not proposed to change it.
- 11) The Applicant's plans include a rooftop recreational space so that the residents of the development can take advantage of views to the north, west and south of the building. The roof plan incorporates a green roof deck for residents. There are three means of egress from the roof deck, including an elevator. The rooftop level of the building will also contain a small exercise room and a club room, which will both serve as common elements of the building for the tenants.
- 12) Vehicular and loading access to the building is located off of an alley from 11th Street south of the building. The Applicant is proposing to create three parking spaces in the vehicular access area behind the building.
- 13) The Applicant proposes to renovate the existing building and add an additional two stories of residential units to the building.
- 14) The exterior of the building will consist of precast stone in the front and an External Insulating and Finishing System (EFIS), which will provide accents for added energy efficiency and visual appeal, in the rear of the building. The renovated portion of the building will continue the existing pattern of brick and limestone coining, window placement, keystones and soldier course.
- 15) As addressed in the Applicant's Pre-Hearing Statement and in the testimony at the public hearing, the following public benefits and project amenities will be created as a result of this project.
 - a) Housing and Affordable Housing. The proposed PUD offers new high-quality housing to the Columbia Heights neighborhood. Nine out of 28 units are designated as affordable to people earning between 30 and 80 percent of the Area Median Income (AMI). The Applicant proposes nine affordable housing units: 3 one-bedroom units and 2 two-bedroom units, in accordance with Exhibit ____.
 - b) Stabilizing and Improving the District's Neighborhoods. One of the overarching Major

Themes of the Comprehensive Plan specified in §102 is the goal of “stabilizing and improving the District’s neighborhoods.” The Applicant believes that the proposed residential development will help accomplish this major goal. The existing building will be rehabilitated into an attractively designed condominium building with affordable housing. Furthermore the Applicant proposes a mixed use of commercial and residential uses that will benefit and enhance the surrounding area. Nearby residents and the neighborhood ANC emphatically support this building because of its positive contribution to the neighborhood.

- c) Attractive architecture, urban design and landscaping. The building is attractive for an affordable housing development, including traditional architecture with brick and limestone exterior and EIFS in the rear of the building. The Applicant proposes to extend the existing precast stone exterior to the added stories and continue the same stone coining, keystones and soldier course. At six stories with at 3.85 FAR, the building will be compatible in scale and design with the surrounding neighborhood.
- d) Comprehensive Plan—Land Use Element. The Generalized Land Use Map of the Comprehensive Plan designates the site for Moderate-Density Residential development, and the subject property and parcels to the south are located within the C-2-A zone district for commercial development. The requested C-3-A zoning with a PUD is considered “not completely inconsistent” with this land classification. The Applicant further notes that this proposed project does not utilize the full 4.5 FAR allowed with a PUD in the C-3-A zone district, but is rather proposed to have a density of 3.85 FAR—a density that is more consistent with the C-2-A zone district.
- e) Comprehensive Plan—Ward 1 Element. This project is true to the focus of the Ward 1 plan, which lists among its objectives that the city “stimulate the production of new and rehabilitated housing to meet all levels of need and demand in Ward 1” and “provide for the housing needs of low- and moderate-income households, . . . encourage home ownership, and reduce the overall cost of housing for low- and moderate-income households in the ward.”
- f) Local Education and Social Services/Facilities. In accordance with Exhibit _____, the Applicant has pledged donations of cash, to the Harriet Tubman Elementary School in the amount of \$100,000 and Keely’s District Boxing and Youth Center in the amount of \$20,000.
- g) Minimal Transportation Impacts. The proposed development is not expected to generate an increased amount of traffic. The PUD site is served by Metrobus routes along Monroe Street and adjacent streets and is within walking distance of the Georgia Avenue/Petworth Metrorail station and the Columbia Heights Metrorail station.

- h) **Environmental Benefits.** The Applicant proposes to create a green roof on top of the building. Green roof technology will improve the environmental efficiency aspects of the building and help with storm water runoff. At least 50% of the roof will be a green roof, which will mitigate the lot occupancy of the site.
- i) **Neighborhood Outreach.** The Applicant proposes to rent out one of the ground-floor retail spaces to ANC 1A in accordance with the agreement set forth in Exhibit ____.

Office of Planning Report

- 16) By report dated January 6, 2006 and by testimony presented at the public hearing, the Office of Planning, ("OP") recommended approval of the Application, stating that "[t]he extremely robust amenity package combined with the neighborhood need for redevelopment make this project a reasonable compromise between [the moderate and medium density residential zones], the "proffered amenities are adequate to offset the allowable density increase of 3.85 FAR and can support a map amendment to achieve this density" and that "the project has enough merit to justify the waiver of the 15,000 square foot minimum lot area [requirement]."
- 17) OP identified several key public benefits and project amenities of the PUD, including creating affordable housing, providing the neighborhood with retail, improving local education, aiding local social programs, utilizing green roof technology, and providing low-cost office space to the local ANC. OP further stated that the PUD is "not inconsistent" with the Comprehensive Plan, noting compliance with the Generalized Land Use Map of the Land Use Element and various policies in major elements of the Plan as well as consistency with several major themes of the Plan.

Reports of Other Agencies

- 18) The Department of Transportation had no issues or concerns with the traffic impact of this proposed development.

Advisory Neighborhood Commission 1A

- 19) Advisory Neighborhood Commission ("ANC") 1A submitted a letter dated July 19, 2005, stating that they "emphatically and unanimously support the above referenced PUD application in that it faces no constituent opposition, enjoys overwhelming public support and contains superior public benefit and amenity to the Columbia Heights community." ANC 1A submitted a second letter dated November 17, 2005, approving a map amendment to C-2-B, stating that "[t]he relief requested by the applicant is overwhelmingly beneficial to the community, consistent with the intentions of the Comprehensive Plan and expressly authorized by the Planned Unit Development Procedures." (OP noted in its report that

“[w]hile the application before the Commission is to rezone to C-3-A, the rationale used by the ANC is applicable to either zone and does not appear to affect their recommendation.”)

Other Community Comments

- 20) Letters in support of the PUD application were submitted to the record from the 1020 Monroe Street 2003 Tenants Association, several members of the District of Columbia City Council, the Deputy Mayor for Planning and Economic Development, and individual community members.

Conclusions of Law

- 1) The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia.
- 2) Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. 11 DCMR § 2400.01. 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 § 2400.02.
- 3) The Zoning Commission has the authority under the PUD process of the Zoning Regulations 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 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.
- 4) 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.
- 5) The proposed PUD does not meet the minimum area requirements of § 2401.1 of the Zoning Regulations. The proposed PUD is 3,090 square feet less than the required 15,000 square feet minimum area requirement. The Zoning Commission may waive not more than 50% of the minimum area requirement provided that the Commission finds that the proposed PUD is of exceptional merit and is in the best interest of the city or country and provided that at least 80% of the gross floor area of the development is used exclusively for dwelling units and uses accessory thereto. 11 DCMR § 2401.2.

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- 6) Approval of the Application is appropriate because the proposed PUD is consistent with the present character of the area.
- 7) Approval of the PUD is not inconsistent with the Comprehensive Plan.
- 8) The development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to environmental considerations. The Commission also finds that the proposed PUD is not inconsistent with the Comprehensive Plan.
- 9) The Zoning Commission finds that the impact of the proposed PUD on the surrounding area and upon operation of city services and facilities is acceptable given the significance, quantity and quality of public benefits cited in Finding No. ____ above.
- 10) The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.
- 11) The Applicant is subject to compliance with D.C. Law 2-38, The Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Application for consolidated review of a Planned Unit Development for Square 2840, Lot 820. This approval is subject to the following guidelines, conditions and standards:

- 1) The PUD shall be developed in accordance with the plans prepared by PGN Architects, PLLC dated January 30, 2006, marked as Exhibit _____ in the record (the "Plans") as modified by the guidelines, conditions and standards herein.
- 2) The subject property shall be rezoned from C-2-A to C-3-A.
- 3) The PUD shall be a mixed-use commercial and residential building consisting of approximately 46,038 square feet of gross floor area, with no more than 5,727 square feet of commercial space and 28 dwelling units. The Project shall not exceed a density of 3.85 FAR. The building shall not exceed a height of 64 feet, as measured in accordance with the Zoning Regulations.
- 4) The Applicant shall provide affordable housing as described in Exhibit _____. To the extent that minor modifications are needed in the execution of the program to conform to District or Federal housing programs, the Applicant shall work with the Department of Housing and Community Development to make such changes to comply with the same.

- 5) The proposed PUD shall include three parking spaces.
- 6) The Applicant shall create a recreational roof structure in accordance with the Plans. The proposed roof shall incorporate green roof technology. The Applicant or its successors shall maintain all landscaping improvements in good condition.
- 7) The Applicant shall have flexibility with the design of the proposed PUD in the following areas:
 - a) To vary the location and design of all interior components of the building provided that the variations do not change the exterior configuration of the building;
 - b) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
- 8) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit.
- 9) The Applicant shall abide by the executed donations made to Keely's District Boxing and Youth Center and to the Harriet Tubman Elementary School and shall provide these donations prior to the issuance of lot and square numbers for the condominiums.
- 10) No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the Land Records of the District of Columbia, between owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.
- 11) 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.
- 12) 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.
- 13) Pursuant to the Human Rights Act of 1977, D.C. Law 2-38, as amended, codified at D.C. Official Code § 2-1402.67 (2001), the Applicant is required to comply fully with the

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provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.

Vote of the Zoning Commission taken at its public meeting on _____:

The order was adopted by the Zoning Commission at its public meeting on _____:

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 _____.