Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 05-22

As Secretary to the Commission, I herby certify that on FEB - 6 2006 copies of this Z.C. Order No. 05-22 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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Office of Zoning

ZONING COMMISSION
District of Columbia
CASE NO. 05-22
EXHIBIT NO. 37

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-22
Z.C. Case No. 05-22
Consolidated Planned Unit Development – Level 2 Development, LLC
14th Street, N.W. Between Florida Avenue and Belmont Street
January 9, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission")held a public hearing on December 5, 2005, to consider an application from Level 2 Development, LLC (the "Applicant") for consolidated review and approval of a planned unit development ("PUD"). The application was filed on behalf and with the consent of L2CP, LLC and Comcast of Florida, LP, a District of Columbia limited partnership, formerly known as District Cablevision Limited Partnership, the owners of the property that is the subject of the application. The Zoning Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

The Applications, Parties and Hearing

1. On July 11, 2005, the Applicant filed an application with the Zoning Commission for consolidated review and approval of a PUD for the property located on Lot 119 and a portion of Lot 122 in Square 2868, on the east side of 14th Street, N.W., between Florida Avenue and Belmont Street in Washington, D.C. (the "PUD Site"). Subsequently, as part of the prehearing statement filed with the Zoning Commission on September 26, 2005, the PUD Site was amended to include all of Lots 119 and 122, for a total site area of 34,357 square feet.

2. At its public meeting held September 15, 2005, the Zoning Commission voted to schedule a public hearing on the application. At the meeting, the Zoning Commission requested that the Applicant provide additional information relating to the project's compliance with the Height Act of 1910, the proposed loading areas and alley improvements, the project's relationship to the surrounding residential development, and the building design.

3. On September 26, 2005, the Applicant filed a prehearing statement with the Zoning Commission that included the information requested by the Zoning Commission and additional information on the application requested by the Office of Planning pertaining to the proposed off-site affordable housing amenity, the monetary contributions to neighborhood organizations, the building design and roof plans, the removal of the satellite dishes from the southern portion of the PUD Site, and the incorporation of "green" building practices.

4. After proper notice, the Zoning Commission held a hearing on the application on December 5, 2005. The parties to the case were the Applicant; Advisory Neighborhood Commission ("ANC") 1B, the ANC within which the PUD Site is located; and the Sankofa Tenants' Association (the "Association"), the beneficiary of the off-site affordable housing amenity proposed by the Applicant.

5. The record contains the following letters in support of the project: a letter dated June 6, 2005, from ANC 1B; a letter dated June 30, 2005, from Jim Graham, Councilmember for Ward 1; a letter dated June 30, 2005, from the Meridian Hill Neighborhood Association ("MHNA"); a letter dated September 20, 2005 from the Cardozo Shaw Neighborhood Association ("CSNA"); a letter dated November 14, 2005, from the South Columbia Heights Neighborhood Association.

6. There were no parties or persons in opposition to the PUD.

7. At its duly noticed meeting held June 2, 2005, ANC 1B voted unanimously for a resolution in support of the PUD application and negotiations with Comcast for the removal of the satellite dishes and antennas on the southern portion of the PUD Site.

8. At its duly noticed meeting held November 3, 2005, ANC 1B voted unanimously to support the PUD provided that the public amenity package not be changed due to economic forces placed on the developer.

9. At its June meeting, the MHNA voted unanimously to support the proposal for the PUD.

10. ANC 1B submitted a report and testified as a party in support of the application at the hearing, and noted that the application has twice been considered by the ANC.

11. At the hearing, the Applicant submitted into the record modified sheets A05, A06, A08, A09, and A12 to the PUD plan, dated December 5, 2005, providing additional details of the Roof Plan.

12. At the hearing, Ms. Sheila Royster, President of the Sankofa Tenants' Association, testified as a party in support of the PUD. Ms. Royster stated that the $1 million contribution to the Association proposed by the Applicant would assist the Association in acquiring the Cresthill Apartment building. She emphasized that the ultimate objective of the members of the Association is ownership of their respective units.

13. At its meeting held December 5, 2005, the Zoning Commission took proposed action by a vote of 5-0-0 (moved by Chairman Carol J. Mitten, seconded by Commissioner Gregory N. Jeffries) to approve the application, subject to the Applicant providing the Zoning Commission with the following:

    a. detailed information on the equipment that will be attached to the rooftop antenna tower and where the equipment will be located on the tower;

    b. revised drawings of sheets S03.1, S03.2, S03.3, and S03.4 of the PUD plan, depicting truck and automobile circulation; and

    c. availability of signage from the Department of Transportation directing drivers on Florida Avenue not to block alley on the east side of the PUD Site.

    Additionally, the Applicant agreed that no logos or advertising would be permitted on the antenna tower or satellite dishes proposed on the building rooftop.

14. The information requested by the Zoning Commission in Paragraph 13 above was submitted by the Applicant, and is marked as Exhibit 34 of the record.

15. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated December 30, 2005, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

16. The Zoning Commission took final action to approve the application on January 9, 2006 by a vote of 5-0-0.

The PUD Project

Overview

17. The PUD is a mixed-use development of residential, retail, and service uses. It will consist of a nine-story building containing 160 to 195 condominium units, a portion of which will be devoted to affordable housing; 33,517 square feet of retail and service uses, of which 13,903 square feet will be counted toward gross floor area; and an underground parking garage with 151 parking spaces. The development will have an aggregate floor area ratio ("FAR") of 6.0. The PUD development plan includes the removal of the satellite dishes and antenna tower existing on the Comcast site located at 14th Street and Florida Avenue, N.W. and replacing them with less obtrusive equipment on the roof of the new building. The Applicant requested the Commission's approval of the PUD pursuant to § 2405.3 of 11 DCMR.

Site Description

18. The PUD Site is located on the east side of 14th Street between Florida Avenue and Belmont Street; a public alley abuts the site on the east. The PUD Site consists of approximately 34,357 square feet of land area in Lots 119 and 122 in Square 2868. Lot 119 is currently improved with an automobile repair shop and warehouse, and Lot 122 is currently improved with a Comcast equipment building, an antenna tower, and satellite dishes. The PUD Site is located in the C-2-B District.

19. The area surrounding the PUD Site is primarily designated medium-density residential on the District of Columbia Comprehensive Plan Generalized Land Use Map, with moderate-density residential to the east along 13th Street. The area is characterized by a mix of residential and commercial uses as well as a mix of newly constructed, refurbished, and older structures. On the west side of 14th Street, across from the PUD Site, are a private parking lot and a strip shopping center. The Wardman Court Apartments (formerly known as Clifton Towers) are located immediately north of the PUD Site, and rowhouses are located to the east. South of the PUD Site, across Florida Avenue, is the Greater U Street Historic District, which contains a mix of residential, retail, and commercial uses.

20. The Flats at Union Row, a comparable mixed-use PUD is under construction to the south of the PUD Site on the east side of 14th Street between V and W Streets. It will have approximately 280 apartment units and 24,000 square feet of retail. The Ellington, on U Street between 13th Street, N.W. and 14th Street, N.W. has approximately 186 dwelling units and 24,000 square feet of retail. The PUD Site and the surrounding area are well-served by public transportation, including Metrobus lines and the U Street-Cardozo Metrorail Station.

Project Design and Components

21. The PUD is envisioned as a future anchor of the U Street Corridor. The design of the building is informed by its 14th Street location – by both the physical characteristics of 14th Street (the north, northeast bend of the axis, and the elevation change) and its historical heritage (automotive dealerships and services and a vibrant commercial corridor). As such, the PUD is designed to act, symbolically speaking, as a portal, facilitating several transitions: a transition between the past commercial vibrancy and the future urban active life, a transition between downtown and uptown, and a transition between the abandonment and disillusions of the 1960's and 1970's to the new urban renaissance. Through its strong presence, the PUD will help invigorate the pedestrian traffic in the area and correct the visual deficiencies of the Comcast site.

22. At the street level, the base of the building is designed to ground the project and to connect it to the commercial past of the area. It will have a robust look, featuring large masonry piers and beams and glass storefront infills. The masonry piers will establish a relation to the predominantly brick buildings in the neighborhood.

23. To help the building integrate into its surroundings, the residential mass will be subdivided into several volumes, each clad in ceramic panels or brick, with metal panels and window walls. Also, the upper two (2) floors of the building will be set back on the east, west, and south façades and will be treated with more glass than the lower floors. The residential feel of the project will be enhanced by the multitude of bay windows on the west and east façade and the availability of balconies for most of the condominium units.

24. Due to the elevation and directional change of 14th Street near the PUD Site, the site is exposed to distinctive vistas from downtown and upper 14th Street. The building design emphasizes these vistas by setting the subdivided building planes at different angles; thus, offering a variety of unique facades depending on the position of the viewer. This design element offers a dynamic viewing experience.

25. Extending nine stories, the PUD will include residential, retail, and service uses. The retail program is proposed to include 13,903 square feet on the ground floor of the building and between 15,000 and 19,000 square feet for a health club on the first and second levels of the underground parking garage. The parking garage will consist of, at a minimum, two and one-half (2.5) levels of parking. The top eight (8) stories of the building will house approximately 160 to 195 condominium units totaling approximately 173,765 square feet. (The number of condominium units will depend on market demands within the specified range. However, regardless of the number of units, the overall square footage of residential use will remain at approximately 173,765 square feet.) Also, in the alternative to the retail program described above, as noted on the plan for the project, there will be approximately 11,400 square feet of retail on the ground floor and approximately 3,021 square feet of retail on the first floor. In this case, the building would not include a health club and the parking garage would be limited to two (2) levels. The ground floor of the building will be accessible from 14th Street near Florida Avenue, and the first floor will be accessible from 14th Street near Belmont Street. The service area for the PUD will have one loading berth that is fifty-five (55) feet deep, two (2) loading platforms that are thirty (30) feet deep, and one service/delivery loading space that is twenty (20) feet deep. The service area and underground parking garage will be accessible from the public alley on the eastern boundary of the PUD Site. Most of the alley will be widened from fifteen (15) feet to twenty (20) feet in order to better accommodate this vehicular traffic.

Matter of Right Development Under Existing Zoning

26. The PUD Site is located in the C-2-B District, which is designated to serve commercial and residential functions, but with high-density residential and mixed uses.

27. The maximum building height permitted in the C-2-B District is sixty-five (65) feet. The maximum permitted FAR is 3.5, of which up to 1.5 FAR may be for commercial use.

Development Incentives and Flexibility

28. The Applicant requested the following areas of flexibility from the Zoning Regulations:

a. Roof Structure Requirements: Section 411.5 of the Zoning Regulations requires that the enclosing walls from the roof level be of equal height. The Applicant proposed to have a roof that varies in height in order to minimize the bulk and visual appearance of the extensive rooftop mechanical/equipment penthouse enclosure.

b. Residential Recreation Space: Pursuant to § 773.3 of the Zoning Regulations, buildings located in the C-2-B District containing a residential use, other than a one-family dwelling, flat, or hotel, must have an area equal to fifteen percent (15%) of the gross floor area dedicated for residential use as residential recreation space. The recreation space for the PUD is approximately six and one-half percent (6.5%) of the gross floor area, augmented by additional outdoor recreation space in the form of private terraces and balconies.

c. Roof Top Antenna: The Applicant proposed an antenna tower on the roof of the building, which is not permitted in the project as a matter of right under the Zoning Regulations. The antenna and the attached dishes and equipment would be as shown on the plans marked as Exhibit 28 and would replace the existing 140-foot tower and cable dishes located on the southern portion of the PUD Site at 14th Street and Florida Avenue. While not meeting the normal requirements of the Regulations, the proposed antenna and equipment would be less visibly intrusive than the existing condition.

Public Benefits and Amenities

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

a. Housing and Affordable Housing. The single greatest benefit to the area, and the District as a whole, is the creation of new housing and home-ownership opportunities consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. The Applicant proposes to devote an area equal to fifteen percent (15%) of the density gained through the PUD process (versus the development permitted as a matter of right in the C-2-B District), or approximately 11,729 square feet, as affordable housing. Of that, approximately 6,000 square feet will create units in the project available to those persons whose income does not exceed eighty percent (80%) of the "area median income" as that term is defined by the U.S. Department of Housing and Urban Development. Those units will reflect the market-rate units within the project in terms of size and distribution throughout the building. In lieu of constructing the additional 5,729 square feet of affordable housing on site, the Applicant will contribute $1 million to the Sankofa Tenants' Association for the acquisition of the Cresthill Apartments, a 48-unit apartment house with over 50,000 square feet of gross floor area, located within one-half block of the PUD Site at 1430 Belmont Street. The Association is working with Jubilee Housing, Inc., the management agent for the Cresthill Apartments, and Reuben McCornack, an affordable housing development consultant, on a strategy to acquire the apartment

building, convert it to a cooperative, and rehabilitate and maintain the 48 apartment units within the building as affordable housing.

b. Building Design and Site Planning. The high quality of design in the development of the architecture for the project exceeds that of most matter-of-right projects. The base of the building, with its neighborhood-oriented retail and service uses, will stimulate pedestrian traffic while reflecting on the historical heritage of 14th Street. In addition, the elimination of the satellite dishes and antenna tower from the Comcast site and the screening of the remaining Comcast equipment building through a solid screen wall will significantly improve the urban landscape and create an environment that complements the character of 14th Street and the U Street Corridor. The provision of rooftop private and publicly accessible terrace space will be a positive amenity to residents.

c. "Green" Building Practices. The PUD will include an irrigation system for on-site rainwater, and will include approximately 2,000 square feet of "green" roof on the mechanical penthouse roof.

d. Transportation Features. The PUD incorporates several measures that mitigate adverse traffic impacts. First, it will contain ground-floor retail and service uses, reducing the need for residents to drive for basic neighborhood services. Second, residents will be within walking distance of the 14th and U Street Corridor, which offers a number of services and commercial uses, including stores, restaurants, and entertainment establishments. Third, the PUD Site is well served by public transportation, including Metrobus lines and the U Street-Cardozo Metrorail Station. Fourth, in order to improve traffic circulation to and from the PUD Site, the project has been designed to eliminate the existing curb cuts on 14th Street and Belmont Street and to limit vehicular ingress and egress to the public alley east of the PUD Site. Fifth, in order to better accommodate this vehicular traffic and improve circulation, most of the abutting alley will be widened from fifteen (15 feet to twenty (20) feet. Finally, the PUD will include an underground parking garage that contains a minimum of 151 parking spaces, in excess of the number required under the Zoning Regulations, so that residents and users of the project will not have to compete for on-street parking spaces. Of those parking spaces, at least two (2) will be reserved for a "Zip Car" or "Flex Car" car sharing programs for residents.

e. Employment and Training Opportunities. In order to further the District of Columbia's policies relating to the creation of employment opportunities, the Applicant will enter into a Memorandum of Understanding with the Office of Local Business Development. Under the terms of the Memorandum, the Applicant shall commit to make a bona-fide effort to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation in the contracted development costs in connection with the development of the Project. The Applicant will also enter

into a First Source Agreement with the Department of Employment Services ("DOES") ensuring cooperation with DOES for employee recruitment for jobs created by the PUD with the objective that fifty-one percent (51%) of the employees hired in connection with the development of the project are District of Columbia residents.

f. Monetary Contributions to Neighborhood Organizations. As part of the amenities and benefits package offered in connection with the application, the Applicant committed $40,000 to assist the following neighborhood programs and initiatives:

Parent Association of the Boys & Girls Club of Greater Washington ($20,000) Education, field trips, educational materials, and supplies for high school members at the Mary and Daniel Loughram Clubhouse #10.

The Children's Studio School at 13 Street and V Street, N.W.. ($10,000) Full day School of Arts as Education, Early Light and After 4 Studios, City as Studio, Urban Arts Complex, Evening Studios, Weekend Studios, Honoring and Transforming the Intimate Cultural Traditions of Washington Families, Epicenter Stories, and internships at the Children's Studio School.

Meridian Hill Neighborhood Association. ($5,000) Scholarship fund for students at Cardozo High School, neighborhood clean-up, social events, welcome packages for new neighbors, and education forums.

Cardozo Shaw Neighborhood Association. ($5,000) Initiatives resolving historic district boundaries, renovation of the Harrison Recreation Center, and on-going neighborhood outreach.

Compliance with the Comprehensive Plan

30. The project is not inconsistent with the Comprehensive Plan as follows:

a. The Generalized Land Use Map for the District of Columbia. The proposed development is consistent with the Generalized Land Use Map, which designates the PUD Site as mixed-use medium-density commercial and medium-density residential.

b. Stabilizing and Improving the District's Neighborhoods. The PUD will assist in stabilizing and improving the Columbia Heights neighborhood by replacing the existing uses on the PUD Site with a well-designed mixed-use project that will bring new residents into the area and provide new retail services for the new and existing residents.

c. Reaffirming and Strengthening the District's Role as an Economic Hub. The Comprehensive Plan encourages making maximum use of the District's location

at the center of the region's radial Metrorail and commuter rail system. The PUD furthers this objective, because it brings residential, retail, and service uses in close proximity to the U Street-Cardozo Metrorail Station. Additional commuter services are available through the Metrobus lines that serve the PUD Site and the surrounding area.

31. The PUD furthers the objectives and policies of many of the Comprehensive Plan's major elements as follows:

a. Economic Development. The District places a high priority on the generation of new and productive uses of currently underused commercially and industrially zoned lands. 10 DCMR § 200.10. The policies in support of the economic development objectives for Ward 1 include: (a) supporting the development of the U Street Corridor and U Street-Cardozo Metrorail Station areas; (b) promoting compliance by private sector employers with equal employment opportunity and affirmative action requirements as well as maximize involvement of private sector employees in the training and job placement programs; and (c) ensuring commercial and service establishments necessary to neighborhood residents. 10 DCMR § 1202.1 (a), (b), (i), (m), (n).

The PUD supports the foregoing. First, the development would be a significant improvement over the automobile repair shop, antenna tower, and satellite dishes that are currently on the PUD Site and dramatically improve the aesthetics of the area while creating new housing opportunities and neighborhood retail uses to serve the residents, businesses, and offices in the area. Second, it will support the continued development of the U Street Corridor and U Street-Cardozo Metrorail Station areas by generating new residents that will utilize the businesses, services, and public amenities in these areas. Third, the Applicant will enter into a Memorandum of Understanding with the Office of Local Business Development to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation in the contracted development costs in connection with the development of the Project, and the Applicant will enter into a First Source Agreement with DOES ensuring cooperation with DOES for employee recruitment for jobs created by the PUD and ensuring that fifty-one percent (51%) of the employees hired in connection with the development of the project are District of Columbia residents.

b. Housing. Housing is viewed as a key part of a total urban living system that includes access to transportation and shopping centers, the availability of employment and training for suitable employment, neighborhood schools, libraries, recreational facilities, playgrounds, and other public amenities. 10 DCMR § 300.4. The Ward 1 Housing element emphasizes the necessity for housing located close to services needed for urban living. 10 DCMR § 1204.1. The first principle is supported by the PUD's proximity to the U Street-Cardozo

Metrorail Station and the 14th and U Street corridor, which includes a myriad of neighborhood uses and public amenities. The latter principle is supported by the Applicant's commitment to reserve a portion of the project as affordable housing and its $1 million contribution to the Association for the acquisition of the Cresthill Apartments.

c. Transportation. A major policy for transportation in Ward 1 is supporting land-use arrangements that simplify and economize transportation services in the ward, including mixed-use zones that permit the co-development of residential and non-residential uses. Additional development is specifically encouraged in the area of the U Street-Cardozo Metrorail Station. 10 DCMR § 1214.1(a). Also, the Comprehensive Plan recognizes that the existing supply of parking spaces is inadequate in commercial and residential areas and encourages the development of parking facilities that will not adversely impact residential communities or parkland. 10 DCMR § 1215.1(g). The PUD supports these objectives by including a mix of residential, retail, and service uses intended to serve the building residents and positively impacts the area around the U Street-Cardozo Metrorail Station, while providing hundreds of potential new users for the station. Also, it will provide an underground parking garage that exceeds the requirements of the Zoning Regulations.

Office of Planning Report

32. By report dated November 25, 2005, the Office of Planning ("OP") recommended approval of the PUD application. This recommendation was based on its findings that the Application was supported by the ANC and numerous community groups and would generally be consistent with or further important Comprehensive Plan objectives related to housing, urban design, and land use within Ward 1. The report states that the PUD is generally consistent with zoning for the area, and the proposed amenity package is appropriate to the amount of density being gained through the PUD process.

Other Government Agency Reports

33. By email, the Metropolitan Police Department noted that "With sufficient underground parking in the building, (MPD) foresees no adverse public safety issues with this proposed building plan."

34. Also by email, the Department of Parks and Recreation noted that there is no District park property in the immediate vicinity of this development that will be impacted. Provision of some public green space as part of the package would be supported, as this area and areas due east and north have very little open space. OP noted that the Applicant is providing private and publicly accessible open space on the rooftop for residents, as well as green roof and streetscape landscaping.

35. By letter, the Department of Employment Services noted that the Applicant has agreed to enter into a First Source Agreement with DOES to ensure that District residents receive fifty-one percent (51%) of the new jobs created by this project, and recommended that

the Applicant execute this agreement prior to the Zoning Commission taking proposed actions.

36. By email, the Watershed Protection Division (WPD) of the Department of Health noted among its comments that "the WPD concurs with one of the OP's suggestions requesting the Applicant to further investigate the feasibility of incorporating 'green building' practices in their design."

37. By report dated November 29, 2005, the District Department of Transportation ("DDOT") concluded that the transportation network can accommodate the proposed project without creating dangerous or objectionable traffic conditions. As such, DDOT had no objections to the project.

CONCLUSIONS OF LAW

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

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, 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 will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments that offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD, as approved by the Commission, including its approval pursuant to § 2405.3, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The residential and neighborhood-serving retail uses for this project are appropriate for the PUD Site. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable.

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

7. The project benefits and amenities, particularly the provision of housing, affordable housing, and neighborhood-serving retail, are reasonable for the development proposed on the PUD Site.

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

9. Approval of this PUD is not inconsistent with the Comprehensive Plan.

10. 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.

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

12. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for consolidated review of a Planned Unit Development for the PUD Site located on the east side of 14th Street, N.W., between Florida Avenue and Belmont Street, in Square 2868, Lot 119 and Lot 122. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by SK&I Architects, entitled "14th Street & Florida Avenue, NW – A Planned Unit Development," dated December 21, 2005, marked as Exhibit 34 in the record (the "Plans"), except as modified by the guidelines, conditions, and standards herein.

2. The project shall be a residential and retail development constructed to a maximum height of ninety (90) feet and a density of 6.0 FAR. Approximately 173,765 square feet of the gross floor area of the project shall be devoted to residential use, with 160 to 195 condominium units, and approximately 13,903 square feet of the gross floor area shall be devoted to retail use.

3. Of the residential gross floor area for the project, a minimum of approximately 6,000 square feet shall be devoted to affordable housing for residents with an income that is no greater than eighty percent (80%) of the area median income.

4. The PUD shall include a minimum of 151 parking spaces with a minimum of 15 spaces devoted to the retail uses. Further, at least two (2) of the parking spaces shall be reserved for use by a car-sharing service, such as Zip Car or Flex Car.

5. Prior to the issuance of certificate of occupancy for any unit within the PUD, the Applicant shall make a monetary contribution of $1 million to the Sankofa Tenants' Association, and shall cause the recordation of a covenant in the land records of the District of Columbia that limits the use of the Cresthill Apartment building at 1430 Belmont Street, N.W., to affordable housing for not fewer than 25 years from the date that the property is acquired by the Association. In the event that said covenant is not recorded at the time the Applicant requests issuance of a certificate of occupancy, in addition to the provision in Condition No. 3 above, the Applicant shall reserve a minimum of 5,729 square feet of the residential area on the PUD Site for persons whose income does not exceed eighty percent (80%) of the area median income.

6. Prior to the issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of $20,000 to the Parent Association of the Boys & Girls Club of Greater Washington.

7. Prior to this issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of $10,000 to The Children's Studio.

8. Prior to this issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of $5,000 to the Meridian Hill Neighborhood Association.

9. Prior to this issuance of a building permit for the PUD, the Applicant shall make a monetary contribution of $5,000 to the Cardozo Shaw Neighborhood Association.

10. The Applicant shall enter into a Memorandum of Understanding with the Office of Local Business Development. The Applicant shall abide by the terms of the Memorandum of Understanding in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project.

11. No logos, advertisements, or similar markings shall be permitted on the antenna tower, satellite dishes, or any cable equipment located on the rooftop of the building.

12. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services. The Applicant shall abide by the terms of the agreement 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.

13. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner(s) and the District of Columbia, that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct on and use the PUD Site in accordance with this Order or amendment thereof by the Zoning Commission.

14. 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.

15. 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.

16. Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), the Applicant is required to comply fully with the 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 applicants fail to comply with any provision of the Human Rights Act.

On December 5, 2005, the Zoning Commission approved the application by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve)

The Order was adopted by the Zoning Commission at its public meeting on January 9, 2006, by a vote of 5-0-0 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull to approve).

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 FEB - 3 2006.

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING