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March 5, 2006

VIA HAND DELIVERY

Zoning Commission
for the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: ZC Case No. 05-39
St. Martins Apartments PUD

Dear Commissioners:

On behalf of the Applicants, Archdiocese of Washington and Catholic Community Services, we are submitting herewith an original and twenty copies of their proposed findings of fact and conclusions of law.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Mary Carolyn Brown*
Whayne S. Quin
Mary Carolyn Brown

Attachments

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D.C. OFFICE OF ZONING
RECEIVED

ZONING COMMISSION
District of Columbia
CASE NO. 05-39
ZONING COMMISSION
District of Columbia
EXHIBIT 12
CASE NO. 05-39
EXHIBIT NO. 72

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of March, 2007, a copy of the foregoing letter, with attachment, was sent by hand-delivery or first-class mail, postage prepaid, to the following:

Maxine Brown-Roberts
D.C. Office of Planning
801 North Capitol Street, N.E., 3rd Floor
Washington, D.C. 20002
(hand-delivery)

Advisory Neighborhood Commission 5C
P.O. Box 77761
Washington, D.C. 20013
(first-class mail)

Eckington Citizens for Responsible Development
c/o Stephen White
1937 Summit Place, N.E.
Washington, D.C. 20002
(first-class mail)



Mary Carolyn Brown

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-39
Case No. 05-39

Consolidated Planned Unit Development and Map Amendment
St. Martin's Apartments – 116 T Street, N.W.
Square 3531, Lots 114 and 115
Archdiocese of Washington and Catholic Community Services

[Date of Final Action]

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held public hearings on January 29, 2007 and February 8, 2007, to consider an application from Archdiocese of Washington and Catholic Community Services (collectively referred to herein as the "Applicant"), for consolidated review and one-step approval of a planned unit development ("PUD") and related zoning map amendment from R-4 to R-5-B. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

The Applications, Parties, and Hearings

1. On December 2, 2005, the Applicant filed an application with the Commission for consolidated review and approval of a Planned Unit Development ("PUD") for property consisting of Lots 114 and 115 in Square 3531 ("the Subject Property"), as well as an amendment of the Zoning Map from the R-4 to the R-5-B District. The Subject Property consists of approximately 91,152 square feet of land area and is bounded by T Street on the south, Todd Place on the north, Summit Place on the east and Lincoln Road on the west in the northeast quadrant of the City. There is a significant change in topography from street level to grade at the center of the Subject Property. The Subject Property is currently improved with a surface parking lot, a Quonset hut, and a Single Room Occupancy ("SRO") building (St. Martin's House), which is presently used by Catholic Community Services to house seventeen formerly homeless men. This former convent will be moved to the east of the Subject Property and incorporated into the proposed development. The City Lights Public Charter School is located on the western portion of the Subject Property, and will continue to operate during and after completion of the PUD project. The proposed development includes 178 residential units, all of which will be affordable to moderate- and low-income households. The project will provide 120-140 parking spaces in a partially below-grade garage. The total project Floor Area Ratio ("FAR") will be 2.64.

2. At its public meeting held on April 20, 2006, the Commission voted to schedule a public hearing on the application. The Commission noted that since the time the applications had been filed, the D.C. Preservation League submitted to the District's Historic Preservation Office a request designate the former convent and school as historic landmarks. The Commission directed the Applicant to resolve that issue prior to any hearing on the application.
3. On September 15, 2006, the Applicant submitted a Pre-Hearing Statement, along with revised Architectural Plans and Elevations, marked as Exhibit ____ of the record in this case (the "September 15th Plans"). The September 15th Plans supersede the plans originally filed with the application. These revisions to the site plan reflected a negotiated agreement with the D.C. Preservation League to preserve the convent building by relocating it to the southeast corner of the project and incorporating it into the new design. As a result of this compromise, it was necessary for the Applicant to eliminate six of the originally planned residential units, reducing the total number of units in the development from 184 to 178. These changes reduced the overall FAR of the development from 2.7 to 2.64.
4. On January 9, 2007, the Applicant submitted updated architectural drawings, marked as Exhibit ____ of the record in this case, and additional comments in response to correspondence with the Office of Planning ("OP") and numerous community organizations. Modifications to the architectural drawings included reintroducing three-bedroom units to the unit mix.
5. After proper notice, the Zoning Commission held a public hearing on the application on January 29, 2007 and February 8, 2007. The parties to the case were the Applicant; Eckington Citizens for Responsible Development ("ECRD"); and Advisory Neighborhood Commission ("ANC") 5C, the ANC within which the property is located.
6. The Applicant presented four witnesses at the Commission's hearing of January 29, 2007: Edward J. Orzechowski, LCSW, President and CEO, Catholic Community Services; Logan C. Schutz, AIA, Grimm Parker Architects; Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, and Iain Banks, a traffic engineer with O.R. George & Associates. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Mr. Schutz was recognized as an expert in architecture, Mr. Sher an expert in land use, zoning and planning, and Mr. Banks as an expert in transportation planning.
7. ECRD presented six witnesses: Adam Benzing, Sally Berk, an expert in historic preservation and compatible design in a historic context, Steve Rynecki, Joe Lilavois, Geoffrey Taylor, and Mirafe Marcos. ECRD expressed concerns regarding (i) the impact of the project on neighborhood traffic and parking, the compatibility of the project with historical aspects of the site and the neighborhood, the appropriateness of the development with regard to the Comprehensive Plan, and the possible ramifications of this type and scale of construction on the houses and streets of the neighborhood. (ZC Transcript, February 8, 2007 ("Tr. 2/8") at 70).

8. **Twenty-three persons or organizations testified in support of the application, including the Edgewood Civic Association, the Bloomington Civic Association, and the Ecumenical Council. Dozens of letters were also submitted to the record in support of the project. The supporters praised the development of affordable rental units and the sensitivity and compatibility of the design with the adjacent residential properties. They noted that the Comprehensive Housing Strategy Task Force stated that 19,000 new units of affordable housing must be built to accommodate future growth in the City. By providing 178 units, they stated that the St. Martin's project represents a reasonable contribution of the Eckington neighborhood toward reaching the overall City goal for new affordable housing. Many of the witnesses, including the Bloomingdale Civic Association, testified that design, scale and program of the project were refined in direct response to specific issues raised by the community.**

9. **The Coalition for Smarter Growth also testified in support of the project in that it offers critically important workforce housing in a City and neighborhood where such affordable housing is rapidly disappearing. The Coalition noted the project will be located close to a robust transit network and downtown Washington. Given the low car ownership rates in the neighborhood, the Coalition suggested that it would be appropriate for the project to offer fewer off-street parking spaces. However, the Coalition concluded that the proposed parking ratio and pricing to rent parking is an appropriate compromise with some neighbors who have asked for more parking to be provided. According to the Coalition, the provision of additional parking would needlessly burden housing costs.**

10. **A number of individuals filed letters with the Commission and testified in opposition to the project. The letters and testimony raised a number of issues, but the primary concerns included the following:**
 - **The incompatibility of size, scale and design of the project with the surrounding row houses;**
 - **Preservation of the historic convent on the site;**
 - **The inappropriate mix of low and very low income residents that would occupy the building and create "a pocket of economic segregation within a rejuvenated neighborhood;"**
 - **The unknown neighbors that would reside in the project and the potential crime they would generate; and**
 - **Parking and traffic congestion.**

(See ZC Case No. 05-29, Exhibits 27-33).

11. **At its meeting on December 19, 2006, which was duly noticed and at which a quorum was present, ANC 5C voted to support the amended proposed development.**

12. **At its public meeting held on March 12, 2007, the Zoning Commission took proposed action by a vote of _____ to approve with conditions the applications and plans that were submitted to the record.**

13. The Zoning Commission took final action to approve the application on _____ by a vote of _____ .

The PUD Project

14. The proposed PUD contemplates the construction of a multi-family residential building that will accommodate moderate- and low-income families. Under the initial submission, the Applicant proposed to provide 184 apartments. The number of units under the revised scheme has been reduced slightly to 178 units, with a loss of approximately 5,500 square feet of space. The overall FAR of the project is now 2.64, down from 2.7 FAR in the initial proposal. Approximately 120-140 parking spaces will be provided in a partially below-grade garage, which exceeds the minimum requirement of 89 spaces, or one for every two units.
15. The Subject Property consists of Lots 114 and 115 in Square 3531, and contains approximately 91,152 square feet of land area. The Subject Property is currently improved with a surface parking lot, a Quonset hut, and a former convent that now serves as a Single Room Occupancy ("SRO") building (St. Martin's House) used by Catholic Community Services to house formerly homeless men. This structure will be relocated to the corner of T and Summit Streets and incorporated into the project design. The City Lights Public Charter School is located on the western portion of the Subject Property, and will continue to operate during and after completion of the PUD project.
16. The project includes a number of community service and recreational uses, including a library, computer room, café and lounge, game rooms, two extensively landscaped interior courtyards and two roof terraces. The building will also include 1,200 square feet of space that will be used by the adjacent City Lights Charter School as a shop and storage space.
17. The Subject Property is located in the northeast quadrant of the District in the Eckington neighborhood. The Eckington residential area includes rowhouses, moderate density apartment buildings, and institutional uses, including McKinley Technical High School and Hyde Leadership Charter School, which are located immediately south of the project. The Comprehensive Plan designates the area for moderate density residential uses.

Matter of Right Development Under Existing Zoning

18. The Subject Property is currently zoned R-4. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. 11 DCMR § 330.1. The R-4 District permits a maximum height of forty feet and three stories. A maximum FAR is not prescribed in the R-4 District. Parking is required at a rate of one parking space for each three dwelling units. Under the PUD guidelines for the R-4 District, the maximum permitted height for a residential use is sixty feet, and the maximum FAR is 1.0. 11 DCMR §§ 2405.1, 2405.2.

Matter of Right Development Under Proposed Zoning

19. Under the proposed PUD, the zoning of the Subject Property would become R-5-B. The R-5 Districts are General Residence Districts designed to permit flexibility of design by permitting in a single district all types of urban residential development if they conform to the established height, density, and area requirements. 11 DCMR § 350.1. The R-5-B District is designed to permit moderate height and density developments. 11 DCMR § 350.2. The R-5-B District permits a maximum height of fifty feet and a maximum FAR of 1.8 for all structures. 11 DCMR §§ 400.1, 402.4. Parking in the R-5-B District is required at a rate of one space for each two dwelling units. 11 DCMR § 2101.1. Under the PUD standards for the R-5-B District, the maximum permissible height is sixty feet. 11 DCMR § 2405.1. The PUD standards for the R-5-B District permit a maximum FAR of 3.0 for residential uses. 11 DCMR § 2405.2.

Development Incentives and Flexibility

20. The Applicant seeks flexibility from the minimum requirements for loading facilities. As permitted under section 2405.8, the Commission may grant such flexibility without the need for special exception approval from the Board of Zoning Adjustment or compliance with the special exception standards that might otherwise apply.
21. The Zoning Regulations require an apartment building with more than fifty units to provide a truck loading berth with a depth of fifty-five feet. Instead, the PUD proposes a loading berth of thirty feet that will be combined with the service area. The Zoning Commission has previously found in other larger PUDs that, based on reports of traffic engineers, a fifty-five foot loading berth has proved unnecessary for a residential building of this size. *See, for example, Z.C. Order No. 03-26, 14th & V PUD, August 5, 2004; see also Z.C. Order No. 04-13, 1200 R Street PUD, May 13, 2005.* The units in the proposed PUD are modest in size, averaging approximately 560 to 1180 square feet each. Based on statistics submitted for much larger PUDs, such households will only generate a need for smaller trucks or transport vehicles. Surveys of condominium projects ranging from fifty-eight to 300 units indicate that the arrival of a large tractor-trailer is a rare occurrence and that the absence of a fifty-five foot loading berth for residential use did not create any adverse impacts. Further, truck rental facilities have confirmed that a fourteen or fifteen foot van or small truck is most frequently used for moving purposes. Consequently, a smaller loading berth will not adversely affect traffic circulation patterns or loading issues in the immediate vicinity.
22. The Applicant also seeks flexibility from section 3202.3 to allow two principle buildings – City Lights School and the St. Martin's Apartments – on one lot of record. The Commission notes that the City Lights School was constructed prior to the enactment of the current Zoning Regulations and is therefore a "grandfathered" structure. The school building and the proposed project will still be programmatically integrated, with the project providing space for workshop classes for the school. However, because there will not be any above-grade connection, relief from section 3202.3 is necessary.

23. Finally, the applicant seeks flexibility from section 2116.1 in order to allow area residents and faculty and staff of the adjacent schools to park at the site, which is a proffered public benefit of the project.

Public Benefits and Amenities

24. The Commission finds that 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 City as a whole, is the creation of new housing opportunities consistent with the goals of the Zoning Regulations, the Comprehensive Plan and the Mayor's housing initiative. Additionally, the project will provide affordable units to both low and very low-income households to ensure an adequate supply of housing opportunities for existing area residents. The 128 units devoted to households earning sixty percent of AMI will be configured as one-, two-, and three-bedroom units. Any resident whose income increases above the sixty-percent income limits while residing in the building will be permitted to remain. The remaining fifty units will be set aside for individuals earning approximately thirty percent of AMI. These units are intended to serve formerly homeless individuals who have completed the Applicant's self-sufficiency training program and are earning approximately \$18,000 to \$20,000 annually. Seventeen men in this income bracket are currently living on the property, and this segment of the population will continue to be served at the site in greater numbers.
 - b. *Urban Design, Architecture, Landscaping and Open Space.* The proposed new building has been sensitively designed to complement and respect the surrounding neighborhood. The overall composition reinforces the broad and lively elements of the Eckington neighborhood. The design also includes extensive landscaping in the two interior courtyards that provide separate outdoor rooms for active and passive uses. The west courtyard features a formal garden with hard and softscape elements, while the east courtyard includes active recreational spaces and play equipment for children.
 - c. *Social Services and Other Uses of Special Value to the Neighborhood.* The proposed PUD project will provide new affordable housing for a segment of the City's residents and Ward 5 that have not benefited from the recent housing boom. As current market trends have priced a large portion of the population out of the city, this development promises to address the workforce housing shortages for District families. The project will also make any excess parking spaces available to area residents and faculty and staff of the adjacent schools.

Compliance with the Comprehensive Plan

25. The Generalized Land Use Map designates the Subject Property for moderate density residential land use. Rowhouses and garden apartments are the predominant uses in this land use category, which may also include low density housing.
26. At the hearing, ECRD argued that the proposed R-5-B rezoning of the property was inconsistent with the moderate density classification on the Generalized Land Use Map. According to ECRD, R-5-B zoning is more appropriately described as medium density. In support of this view, ECRD relied on the Future Land Use Plan, which was not in effect at the time the application was filed or at the time of the Commission's two hearing dates for this case. The legend on the Future Land Use Plan describes medium density residential uses as including mid-rise apartments of four to seven stories. Because the proposed St. Martin's Apartments will be five-stories in height, ECRD claims that the project falls within the medium density category and thus is inconsistent with the lower "moderate density" designation.
27. The Commission disagrees with ECRD's analysis. First, the Commission is constrained to analyze the proposed project under the current Generalized Land Use Map now in effect. However, the Commission finds that section 350.2 of the Zoning Regulations describes the R-5-B District as permitting development of "moderate height and density." Furthermore, it is not inconsistent with the Plan to have a higher density zone district at one point within an area broadly identified as moderate density if the "predominant" density is moderate. In this area of the city, a broad swath bounded by Rhode Island Avenue on the north, Florida Avenue and Q Street on the south and industrial properties along the railroad right-of-way on the east (but not including the educational campuses on the south side of T Street) is included in the moderate density category. The Commission also takes note of the Office of Planning "Zoning Consistency Chart" submitted to the record on ZC Case No. 04-33 pertaining to Inclusionary Zoning wherein R-5-B is deemed consistent with either Moderate or Medium Density Residential Land Uses. Moreover, the Commission notes that broad areas of the city which are shown as moderate density residential are included in the R-4, R-5-A and R-5-B Districts. Accordingly, the Commission finds that the proposed rezoning of the site to R-5-B is not inconsistent with the Generalized Land Use Map of the Comprehensive Plan.
28. Second, even if the Commission were to analyze the propose project under the Future Land Use Plan of the Comprehensive Plan, it would likewise find that the proposed rezoning of the site to the R-5-B District is not inconsistent with that Plan. The Future Land Use Map describes moderate density residential as one that "[d]efines the District's row house neighborhoods as well as its low-rise garden apartment complexes. [It] also applies to areas characterized by a mix of single family homes, 2-5 unit buildings, row houses, and low-rise apartment buildings. In some older inner city neighborhoods with this designation, there may also be existing multi-story apartments." In the new Framework Element of the Comprehensive Plan, for the first time zoning districts are described in the context of land use categories, in and indicates that R-5-B can be considered moderate density: "The R-3, R-4, R-5-A zone districts are generally

consistent with the Moderate Density Residential category; the R-5-B district and other zones may also apply in some locations." Moreover, the Guidelines for Using the Generalized Policy Map and the Future Land Use Map found in the Framework Element stated that the he Future Land Use Map is not a zoning map and it is to be interpreted broadly. Those same guidelines note that "the granting of density bonuses (for example, through Planned Unit Developments) may result in heights that exceed the typical ranges cited herein." Thus, the Commission likewise finds that the proposed rezoning of the site to R-5-B will not be inconsistent with the Future Land Use Map of the Comprehensive Plan when it becomes effective.

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

- a. *Stabilizing and Improving the District's Neighborhoods.* The proposed conversion of a SRO to an apartment building will serve to stabilize and improve the surrounding neighborhood. The development will increase the stock of affordable housing while providing a well-designed building that is both accessible and attractive. By increasing the density and mixing households of sixty percent AMI with thirty percent AMI, this project can support a significant investment into the architectural design of the building and enhance the physical and aesthetic appearance of the neighborhood. A matter-of-right building devoted to only the lowest income levels, as originally envisioned for this site, would not support the type of architecture found in this application. A project comprised of a mixture of income levels will help stabilize a neighborhood experiencing displacement and gentrification by providing decent rental housing for low income families.
- b. *Respecting and Improving the Physical Character of the District.* The PUD process will ensure the development of an exceptional design and appropriate density in this well-developed and established community. The project replaces an existing shelter use with a vibrant residential development that is consistent with and complementary to the density and layout of the immediately surrounding neighborhood.
- c. *Reaffirming and Strengthening the District's Role as an Economic Hub.* The Comprehensive Plan encourages maximum use of the District's location at the center of the region's radial Metrorail and commuter rail systems. The project takes advantage of this asset through its proximity to the Rhode Island Avenue Metrorail Station as well as numerous routes of Metrobus. The proposed development furthers the District's efforts to increase the supply of affordable housing and bring additional residents to the City.
- d. *Preserving and Ensuring Community Input.* The Applicant has met with several community groups and immediate neighbors of the proposed development to solicit comments and respond to issues raised. The planning for this project has been guided by a Community Steering Committee sponsored by the nearby St. Martins Roman Catholic Church, which includes approximately twenty-five

church members, a representative of the local ANC, representatives from three to five other neighborhood churches, and other interested community members. The Applicant met with the Community Steering Committee four times prior to submitting this application. Additionally, the Applicant met twice with and was endorsed by the local Ecumenical Council, which represents five neighborhood churches. The PUD has also been supported by the Bloomington Civic Association, which represents the area within which the project is located. As a result of these meetings, the Applicant made significant changes to the project, including a reduction in the building density, increased parking, the introduction of townhouse-like facades on Todd Place, exclusion of pedestrian or garage entrances on Todd Place, and location of the garage entrance past the Hyde school property.

30. The Commission finds that the proposed PUD furthers the 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 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 proposed development serves to attract and retain residents which further increases the tax base and creates revenue for the District of Columbia. The principal direct tax revenues to the District of Columbia as a result of the proposed project, based on 2005 dollars, total \$487,000 annually (excluding real estate taxes). Further, the combination of initial recordation fees, development processing fees and permits are estimated to generate well in excess of \$800,000 of direct revenues for the city. Additionally, approximately six residential related jobs and project support jobs are estimated to be created. This job generation is in addition to the 109 construction related jobs estimated to be created spanning each month of the project's 18-month construction period.
 - b. *Housing Element.* According to the Housing element of the Comprehensive Plan, housing in the District 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 Site complies with this element in that it is in relatively close proximity to the Rhode Island Avenue Metrorail station and Metrobus lines on North Capitol and Rhode Island Avenues, and will further the total urban living system with its access to public transportation.
 - c. *Transportation Element.* The traffic report prepared by O.R. George and Associates also demonstrates that the proposed project not generate any objectionable conditions with respect to parking or traffic. In fact, Levels of

Service for area roadways will continue to operate in the A and B range. DDOT concurred with the analysis and recommended approval of the project.

- d. *Urban Design Element.* The Project has been designed to enhance the physical character of the area and complement the materials, height, scale and massing of the surrounding land uses. (10 DCMR § 708.2). The facades on Todd Place and Summit Streets are designed to emulate the townhouses that they face rather than appear as a large apartment house. In contract, the T Street elevation reflects its multi-unit character in deference to the size and scale of the institutional school buildings across the street. The project is designed so that a majority of the units have views to the south, affording residents spectacular views of the District's monumental core. The building also incorporates two rooftop terraces to allow residents who do not face south to have access to these views. The new PUD will greatly enhance the architectural character of the site and surrounding area through its high-quality design and elimination of outmoded, underutilized buildings.
 - e. *Land Use Element.* The Land Use element encourages a substantial amount of new housing primarily in housing opportunity areas and near Metrorail Stations in order for the District to perform its role as the region's urban center providing the greatest density of jobs and housing. 10 DCMR § 1100.2(b). The Subject Property furthers this goal due to its proximity to the Rhode Island Avenue Metrorail and Metrobus stops.
31. The Project also fulfills and furthers the specific objectives for this area, as set forth in the Comprehensive Plan for Ward 5:
- a. *Ward 5 Economic Development Element.* Development is sought in Ward 5 which will enhance and expand existing businesses, create new ownership opportunities, increase retail services and opportunities for ward residents, and promote the vitality of ward neighborhoods. The proposed development will create the demand to expand existing businesses, generate new retail businesses, and provide residents of varying incomes who will increase the vitality of this neighborhood.
 - b. *Ward 5 Housing Element.* The project, which is in proximity to the Rhode Island Avenue Metrorail Station area, responds to the objectives of the Ward 5 housing element through its significant contribution of new affordable housing.
 - c. *Ward 5 Transportation Element.* The residents of the proposed PUD will be able to take advantage of the site's proximity to the Rhode Island Avenue Metrorail and Metrobus stations. On both Summit and T Streets, this project will provide units that have individual access to the street. Additionally, it will improve traffic safety through coordinated efforts with DDOT for additional traffic signage and the provision of off-street parking spaces in excess of the require 89 spaces that will be available to area residents. After completion of the project, the traffic will still operate at acceptable Levels of Service (A and B).

- c. *Ward 4 Urban Design Element.* The PUD Project specifically and substantially addresses the objectives in the Ward 5 Urban Design element, including: the promotion of a physical environment that upgrades the ward's aesthetic qualities, enhances neighborhood stability, emphasizes neighborhood identity and function, and physically enhances the gateways and entrance ways into the District (10 DCMR § 1620.1(a)); and the provision of special design attention to those areas in the ward that maintain a poor physical image, where new development can improve the neighborhood's visual qualities while providing needed services (10 DCMR § 1620.1(b)). The PUD Project provides a well designed residential development that will help to physically revitalize the Ward 5 area.

Office of Planning Report

32. By report dated January 19, 2007, the Office of Planning ("OP") recommended approval of the PUD application subject to the D.C. Department of Transportation ("DDOT") report. OP found that the proposed PUD is consistent with the requirements of the PUD regulations and elements of the Comprehensive Plan. OP encouraged the Applicant to work toward obtaining a First Source Agreement with the District of Columbia Department of Employment Services and a Memorandum of Understanding with the Local Business Opportunity Commission prior to final action by the Zoning Commission. The Applicant agreed to these recommendations.

Other Government Agency Reports

33. The District Department of Transportation ("DDOT") submitted an initial memorandum, dated January 29, 2007, indicating that DDOT supports the project proposal with modifications. DDOT requested that the Applicant work with DDOT to determine the preferred location for the parking garage entrance and to ensure that public entrances are handicapped accessible. Thereafter, DDOT met with the Applicant and filed a supplemental memorandum dated February 8, 2007, supporting the project without the need for modifications. DDOT requested that the Applicant continue to work with DDOT regarding the introduction of additional traffic calming measures. Specifically, DDOT requested, and the Applicant agreed, to post a stop sign on private property at the garage exit, which will permit drivers to have a clear view of pedestrian and vehicular traffic along T Street before proceeding across the sidewalk and into the street. Additional signage will also be posted at the parking garage to enforce the one-way restriction periods along T Street. The Applicant also agreed to request the re-striping of the existing crosswalks at Summit Place and T Street, and new stop signs on east- and west-bound T Street at the intersection of Summit Place, N.E., to make the intersection "All-Way Stop" controlled. Finally, the Applicant agreed to continue to work with DDOT as the project progresses and to make any necessary adjustments or institute new traffic calming measures as conditions warrant.

Contested Issues

Size, Scale and Design of the Project

34. Opponents objected to project argued that the proposal does not meet PUD standards in addressing the need for open space, for recreational amenities, and in respecting the design integrity of adjacent properties and the surrounding neighborhood.. Sally Berk, ECRD's expert in historic preservation and compatible design in an historic context, testified that the proposed design was incompatible with the existing buildings on the site and the neighboring two-story rowhouses. She stated that the context of the neighborhood is regularized by unvarying design and repetition, with many buildings even identical. In contrast, she stated, the proposed PUD has "taken an element from almost every single one of those [buildings] and incorporated it into a single project, so that the design becomes far busier" than the existing neighborhood. (2/8 Tr. at 78). She argued that such designs are more appropriate for commercial buildings, not apartments.
35. Ms. Berk also objected to the use of vinyl siding on the proposed building, which in her view was inconsistent with the PUD requirements that "affordable housing should use the same design, the same standards, and the same materials as market rate housing." She argued that market-rate housing does not have such extensive use of vinyl. She further claimed that vinyl siding only has a life of approximately fifteen years. (2/8 Tr. at 78-79).
36. Similarly, Ms. Berk testified that the PUD failed to respect and improve the physical character of the District in that it almost completely eliminates the visual access neighbors have across the property to views of the city. She claimed that the property likewise failed to provide diversity and social responsibility because of its fortress-like configuration. In contrast to front porch rowhouses, Ms. Berk believed that the proposed PUD discouraged neighborhood interaction and thus was socially irresponsible. She admitted on cross-examination, however, that the proposed PUD incorporates the same rowhouse form with numerous access points along the street.
37. Ms. Berk asserted that there were "countless schemes" that were preferable to the current proposal and offered one example consisting of 110 units under a rezoning to the R-5-A District as an alternative. She claimed that the alternative scheme, configured as several garden apartment buildings, would retain the convent in place, maintain the existing topography, create an interaction with the neighborhood and preserve visual access to the views of the city, while at the same time achieving the goals of affordable housing. Ms. Berk concluded that although the alternative scheme was not complete, it was nevertheless viable.
38. The Applicant refuted Ms. Berk's claims. Mr. Schutz, the Applicant's expert in architecture, testified that the proposed design reflects the mixture of styles in the neighborhood and the houses across the street. He described how the materials of the neighboring rowhouses are primarily brick and wood siding, which is consistent with the brick and vinyl siding chosen for the project. He clarified that vinyl siding has a life of up to 50 years and is a fairly indestructible product. Unlike wood, it does not have to be

painted every five to eight years. He further explained that a cementitious product known as Hardiplank is preferred over wood, but has similar maintenance issues, and that vinyl siding is often used instead as a less expensive alternative. Because the specifications for this project call for a higher quality of vinyl siding, including a heavier gauge and matte finish, Mr. Schutz opined that it will be extremely difficult to tell the difference between it and wood. Mr. Schutz also testified that the sixty percent of the exterior will be clad in brick, and because of the manner in which it is used, brick will be the visually dominant material from the public street views.

39. The Commission credits the testimony of the architectural expert and finds that the proposed PUD is compatible with the surrounding neighborhood with respect to size, scale, material and building type. The axonometric drawings and the animated simulations of the project in context prepared by the architects amplify how the project complements the streetscape and reflects the rowhouse qualities of the dwellings across the street. The Commission finds that vinyl is an appropriate product for an affordable apartment building and has been successfully used in other projects approved by this Commission, including the Henson Ridge Hope VI Project (ZC Order No. 942-A, November 16, 2001); the Oxon Creek PUD at 19th Street and Mississippi Avenue, S.E., (ZC Order No. 841, June 5, 1998; Eastgate Senior Residences at Ridge Road and B Street, S.E. (ZC Order No. 04-37, October 21, 2005); Nehemiah Homes at Fort Dupont (ZC Order No. 948, December 14, 2001); Rocky Gorge Fort Totten PUD at 611 Emerson Street, N.E. (ZC Order No. 04-11, May 20, 2005); and the Valley Green/Skytower PUD at Wheeler Road and Valley Avenue, S.E. (ZC Order No. 851, July 3, 1998). In at least two of those cases, the street elevations were clad with less than sixty percent brick.
40. The Commission is persuaded that the apartment house form, as designed by the architect, is the appropriate building type for this new affordable housing community. It is conducive to the provision of important project amenities, including the recreation room, a two-story lobby with front desk service, a café, a library, landscaped courtyards and roof terraces, none of which would be available in a townhouse development. These design features are easily accessible to the residents of the new building through interior corridors. The project is also readily accessible to the disabled and elderly, in part because of the re-grading of the site.
41. The Commission also finds that the juxtaposition of apartment buildings next to rowhouses is typical of this community and other residential neighborhoods throughout the city. Many historic districts are characterized by large-scale apartment buildings adjacent to smaller rowhouses, as shown in the photograph of the Sheridan-Kalorama neighborhood provided by the Applicant. The Commission notes that immediately to the south of McKinley High School, the Commission approved a large-scale residential/retail PUD at Harry Thomas Way and Eckington Place, N.E., with building heights ranging from nine to eleven stories (Z.C. Case No. 05-23). Similarly, in Z.C. Order No. 03-26, the Commission approved a 90-foot tall apartment building on 14th Street, N.W., with approximately 240-300 units, that was separated only by an alley from small-scale two-story rowhouses on V and W streets. The Capper-Carrollsborg PUD will also be characterized by a mixture of housing types, with small rowhouses across the street from

many portions of the development. (Z.C. Case No. 03-12). The Commission also recognizes the approval granted by the Board of Zoning Adjustment in Order No. 8917 authorizing construction of a six-story, 180-unit senior apartment building known as Friendship Terrace at Butterworth and 42nd Streets, N.W., which is located adjacent to detached dwellings in the R-1-B District. The Commission further finds, that while the proposed project will be approximately one to one and a half stories taller than the rowhouses across Todd Place, matter-of-right rowhouses could rise to seventy feet in height if the hill were not regraded, in contrast to the proposed height of fifty-six feet. The proposed height is consistent with the relative height of McKinley High School, and the relative height of City Lights School and the abutting rowhouse to the east. The Commission notes that the neighborhood is characterized by steep grade changes, which create varying roof heights along the streetscapes. Thus, the Commission finds that the scale and density of the building is not inconsistent with the neighborhood or other residential communities in the city.

42. Because the Commission finds that the proposed design is consistent with the PUD standards and the Comprehensive Plan, it need not consider whether alternative proposals with less density would also be appropriate.

Historic Preservation

43. Ms. Berk also asserted that the project does not preserve and promote the cultural and natural amenities of the city. She testified that site currently includes two historic buildings: the former convent building and the school, which are characterized by brick with limestone trim, and a restrained, elegant, simple massing. It was her opinion that the proposed design was incompatible with these qualities because of its unrestrained massing, design and choice of materials.
44. Ms. Berk noted that the convent would be moved from its original site and the site significantly regraded. According to Ms. Berk, these undertakings were not consistent with good preservation practices.
45. Ms. Berk admitted, however, that the neighborhood surrounding the site is not located in a historic district or the site of any historic landmarks. She further acknowledged that pursuant to an agreement with the Applicant, the D.C. Preservation League would be withdrawing its landmark application for the St. Martin's convent and school buildings in exchange for the relocation and incorporation of the convent into the new building. In its letter to the Zoning Commission, DCPL expressed its support for the project because it will protect the historical and architectural attributes of the convent while allowing the affordable housing project to achieve its goals with the greatest flexibility. DCPL noted that the agreement was negotiated with the support of the Office of Planning and the D.C. Historic Preservation Office.
46. The Commission finds that the project fosters the PUD regulations and the historic preservation element of the Comprehensive Plan. While the Commission recognizes the expertise of Ms. Berk in historic preservation, it is persuaded by the fact that DCPL, the

city's leading private preservation advocacy group, determined that the revised design successfully protects the convent such that the landmark application is no longer necessary. Moreover, this agreement was reached after numerous discussions with the city's Historic Preservation Office, a city agency that the Zoning Commission looks to for guidance in such matters. Accordingly, the Commission finds that the proposal is consistent with accepted preservation practices and furthers the goals of the Comprehensive Plan in this regard.

Parking, Loading and Traffic

47. ECRD also disputed the sufficiency of the Applicant's transportation plan with respect to parking and loading facilities and traffic congestion. With respect to loading, ECRD questioned whether the reduction in the size of the loading berth and service area, for which the Applicant requested relief, could be granted without adversely affecting the neighborhood. ECRD argued that the loading dock would not adequately serve delivery trucks and moving vans that are typical for apartment buildings. ECRD also disputed whether the plan adequately accommodated the loading and service needs of the adjacent City Lights School.
48. The Applicant supplemented the record with information on the loading and service needs of City Lights School. Currently, trucks unload supplies for the school from the hilltop parking lot. As part of the PUD project, the Applicant will re-introduce the loading bays at the lower level of the school on Todd Street, which are presently bricked-up. Food and other supplies will be delivered only by 30-foot trucks, which can avail themselves of the re-established loading bays. Alternatively, supplies can be delivered to the St. Martin's Apartment's loading dock and then transported to the school by a hand-truck. This renovation will also allow trash to be emptied from the basement and not the second floor, which due to the grade change, opens on to the existing parking lot.
49. Based on the expert report of the traffic consultant and the recommendation of DDOT, the Commission finds that the reduced loading berth and service area will adequately meet the needs of the new residents without adversely affecting the neighborhood. The re-introduction of the loading bays on the City Lights School is a vast improvement over the current configuration. Because these loading bays are located on Todd Place at the intersection of First Street, the Commission finds that there will be ample room for maneuverability so that delivery trucks can be accommodated.
50. ECRD also claimed that the traffic study was deficient in not analyzing the number of cars that currently park on the St. Martin's convent site. Accordingly to ECRD, as many as 94 were parked on the site at any one time. The Applicant confirmed that teachers and staff at Hyde Leadership Charter School recently began using the lot when McKinley Technical High School ceased accommodating Hyde's parking needs. The Applicant also acknowledged that it had not been vigilant in securing its property to preclude unauthorized individuals from using the lot.
51. ECRD also questioned several other facts and findings in the Applicant's transportation report, including street widths, traffic counts, accident reports, background traffic

conditions, and the driveway location. However, many of the assertions were not supported by evidence submitted to the record. Moreover, the Applicant clarified that its traffic report adequately accounted for future traffic conditions by including a two percent growth factor, which is the accepted methodology. Based on the Applicant's supplemental traffic report dated February --, 2007, which included traffic counts for the recently configured one-way traffic on T Street, the levels of service in the vicinity after construction of the PUD in both the morning and evening peak hours would operate at level B, which is well within the DDOT operating standard of level D or better. Additionally, based on further discussions between the Applicant and DDOT on February 7, 2007, DDOT agreed that the preferred location for the PUD driveway was on T Street.

52. The Commission credits the expert testimony of the Applicant's traffic consultant and DDOT. The Commission finds that the PUD will not create any adverse traffic conditions, and that the traffic calming measures recommended by DDOT, which the Applicant supports, will help alleviate any potential conflicts with pedestrian traffic, whether generated by the PUD, area residents or faculty, staff and students of the nearby schools.
53. The Commission also finds that the PUD provides ample parking for its residents and will also help meet the parking needs of adjacent properties. The Commission recognizes that the Applicant cannot be held responsible for the traffic congestion created by the nearby schools or the parking needs of their teachers and students. The Commission also notes that traffic congestion created by the schools is for a limited period during the day when most residents are at work. Further, such conditions are typically managed by the school – not an adjacent property owner – through a Transportation Management Plan. Nevertheless, the Applicant will accommodate the excess parking demand of the schools and neighbors by providing spaces in its garage. Based on census tract information on car ownership rates for rental units, the PUD and City Lights School will generate a demand for approximately --- spaces. The remaining excess spaces would be available for use by the community, including the Hyde School teachers displaced from the McKinley High School parking lot. The Commission finds the provision of community parking, as well as the commitment to work with DDOT on additional traffic calming measures, to be a significant benefit of the PUD project.

Trash Removal

54. The Commission also finds that the Applicant has adequately addressed the trash removal needs of the City Lights School. Presently, the school uses a dumpster on the hilltop parking lot. As part of the PUD project, the dumpster will be relocated to a 30-foot area between the new building and the existing school at Todd Place. The Commission finds that there will be ample room for trash removal trucks to maneuver and load and unload the dumpster because First Street intersects Todd Place where the 30-foot areaway meets the street.

Other Issues

55. Letters in opposition to the project also expressed concerns about the type of residents who would occupy the building, the potential crime they might generate, and whether mix of incomes targeted for this affordable housing development is appropriate or sustainable. With respect to the "unknown residents" and potential crime they might bring, the Commission finds these issues to be nothing more than speculation based on nothing more than fear. Because these concerns are unsubstantiated, the Commission need not address them.
56. The Commission also finds that the lack of market-rate units in the proposal does not in any way detract from the economic viability of the project, as demonstrated by the evidence submitted by the Applicant. In fact, the Commission finds that the project serves two important segment of the city's population: individuals earning no more than sixty percent of AMI and those earning no more than thirty percent of AMI. Such affordable housing projects are far too few and desperately needed. The provision of such workforce housing to residents in these income brackets is a significant public benefit of the PUD.
57. The Commission also notes that ECRD challenged the project's compliance with the Comprehensive Plan. As discussed earlier, the Commission finds that the proposed PUD is fully compliant with the Plan.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.
2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a project 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, complies with the applicable height, bulk and density standards of the Zoning Regulations. The residential use for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
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 Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.
8. Approval of this PUD and map amendment is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development 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.
9. The Commission is required under section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications with certain conditions persuasive.
10. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A) (2001) to give great weight to the issues and concerns raised in the written report of the affected Commission. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
11. 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 and approval of a planned unit development ("PUD") and an application to amend the Zoning Map from the R-4 to the R-5-B District for the Subject Property, subject to the following guidelines, conditions and standards:

1. The PUD shall be developed substantially in accordance with the plans prepared by Grimm Parker Architects, submitted January 9, 2007, marked as Exhibit ____ in the record (the "Plans"); as modified by the guidelines, conditions and standards herein.

2. The PUD shall be a residential development as shown on the approved Plans. The PUD shall have a maximum FAR of 2.64 and a combined gross floor area of no more than 240,940 square feet. The project shall contain no more than 178 dwelling units. The Applicant shall be permitted to adjust the layout, configuration and number of apartment units, provided the total number of units (178) is not exceeded, and provided further than the number of three-bedroom units does not decrease below two.
3. The maximum height of the residential building shall not exceed fifty-six feet.
4. Fifty of the residential units shall be devoted for use by individuals earning no more than approximately thirty percent of the Adjusted Mean Income (AMI) for the Washington, D.C. metropolitan area. The remaining units shall be devoted to individuals and families earning no more than approximately sixty percent of AMI.
5. The project shall include a minimum of 120 off-street parking spaces. Sixteen spaces shall be set-aside for use by the City Lights School. Any spaces in excess of the parking demand generated by residents of the building and City Lights School may be offered for rent to residents within a two-block radius of the site or to faculty and staff at the public schools across T Street to the south of the PUD site. The Applicant shall develop a parking coordination plan with City Lights School, consistent with the recommendations of the transportation engineer, to ensure the efficient management of the parking garage.
6. The Applicant shall include landscaping, streetscape, and open-space treatment for the project as shown on the Plans. The management company to be hired for the apartment complex shall maintain and keep in good, clean, attractive, and sanitary condition the areas of common responsibility. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement of all landscaping and other flora, structures, and improvements, streets, and rights-of-way, and other green spaces, parks, or open areas shown on the plans, marked as Exhibit ____ of the record in this case.
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 enter into a First Source Employment Agreement with the District's Department of Employment Services and a Memorandum of Understanding with the District's Department of Small and Local Business Development.
9. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;

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 _____, 2007, the Zoning Commission approved the application by a vote of _ - - (_____).

The Order was adopted by the Zoning Commission at its public meeting on _____, 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 _____.

CAROL J. MITTEN
Chairman,
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning

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