

Statement of
GEORGE H.F. OBERLANDER, AICP
On behalf of
The SIBLEY NEIGHBORS for RESPONSIBLE GROWTH
On
A Consolidated Planned Unit Development & Map Amendment
For a Medical Office Building on
The Sibley Memorial Hospital Site (Sq. N-1448, Consolidated Lot 26)
5255 Loughboro Road, NW, Washington, D.C.
(DC Zoning Case No. 05-42)
Before the
Zoning Commission for the District of Columbia
February 1, 2007

Madam Chairman and members of the Commission, My name is George H. F. Oberlander, an urban planning and zoning consultant. I have been qualified as an expert witness before this Commission on various zoning cases since my retirement in 1996 from the National Capital Planning Commission. My complete resume is on file.

I appear on behalf of the Sibley Neighbors for Responsible Growth, a property owners organization, immediately opposite of and immediately surrounding the site of the proposed Medical Office Building. **My statement deals with why this proposed PUD and related map amendment are contrary to planning principles and policies of the Comprehensive Plan and the Zoning Regulations**

I. CURRENT NEIGHBORHOOD SETTING AND ZONING

The Office of Planning's September 29, 2006 Report indicates the current zoning for the Hospital site as R-5-A, the area immediately across Loughboro Road zoned R-1-B, the area east of the site zoned as R-1-A, and the area north and west of the site as Federal property not zoned.

With the exception of the Hospital complex, the entire northwest section of this part of the city is developed with conforming low density residential one family houses. The area is just south of suburban Montgomery County. (See last page).

Since April 1995, the Hospital site (built in 1959) has had several Zoning Commission and Board of Zoning Adjustment approvals which have allowed considerable additional development on the site amounting to the present 541,508 square feet of built space with a total Floor Area Ratio of 1.04.

The R-5-A zoning standards, currently in place, have already been exceeded by the various approvals granted. In addition, various approval conditions in BZA Order 16654, Jan. 2001, dealing with traffic, transportation and parking impacts and others, have not been complied with.

My inquiries, into the compliance of the BZA conditions for that approval, have resulted in a memo from the District Department of Transportation, dated January 26, 2007, (submitted for the record) indicating "substantial compliance" with the additional statement that "Several of the elements in the Zoning Order are addressed through the hospital's pending Zoning Case 05-42."

Now the Hospital wishes to add a Medical Office Building for approximately 75 offices (113,123 sq. ft.) with 750 garage spaces, a data center and associated outpatient services. In addition, the office building is to contain retail medical and eating facilities and a 271-seat auditorium.

In order to achieve the development density and height proposed, the applicant requests a Special Purpose (SP-1 or SP-2) zoning classification be associated with this PUD development site. **Granting such a zone change in this location would be contrary to the original intent and purpose of the SP zoning classifications.**

Section 500.1 of the Regulations clearly states that **"The SP district is designed to stabilize those areas adjacent to C-3-C and C-4 districts and other appropriate areas that contain (a) Existing apartments, offices, and institutions; and (b) Mixed use buildings."**

Section 500.2 states **"The major purpose of the SP district shall be to act as a buffer between adjoining commercial and residential areas"**.

SP zoning was established as a **transitional function** primarily to allow non-profit institutions to locate their offices along Massachusetts Avenue N.W. between Dupont Circle and 14th Street NW.

Section 501 explicitly defines the SP matter of right uses. **There is no matter of right Office Building listed.** The only way a "new office building" can be constructed is under the Section 508 and the Section 3104 special exception provisions. The construction of an "Office Building" in the SP District is permitted as a special exception subject to the conditions of Section 508.1

Section 3104.1 states that BZA is authorized to grant special exceptions if they "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps ... **"Applying SP-1 to the Sibley site would be contrary to the SP transition zone purpose and Section 2400.4 of the Regulations which prohibits PUD's from being "used to circumvent the intent and purpose of the Zoning Regulations"**."

In addition, there is no SP zoning anywhere near this portion of the District. The closest SP zoning (page 6 of the Zoning Maps) indicates SP-1 zoning on the northwest side of Dupont Circle. If the PUD site is rezoned to SP-1 it raises the issue of "Spot Zoning".¹

¹ **Spot Zoning** occurs when a small area of land or section in an existing neighborhood is singled out (for one property owner only) and placed in a different zone from that of neighboring property. Courts have found spot zoning illegal on the grounds that it is incompatible with the existing land use-zoning plan or in an overall zoning scheme for the community.

² As per Sibley patient-survey, hospital clients originate 44% from Maryland and 39% from the District.

II. REVIEW AND COMMENTS ON THE PROPOSED PUD APPLICATION

The PUD Site

The site that Sibley Hospital occupies is also the location of the Grand Oaks Assisted living residence, the Sibley Renaissance Center for Rehabilitation Medicine, Sibley Senior Services skilled nursing home and a residential Alzheimer's unit. In addition, the site accommodates large open and covered parking.² With the exception of the eastern portion of the site, which houses a large open parking area for Visitors and Doctors and a hospital landscaped entrance way area, the 20 acre site is completely built up.

The application cites examples, as justification for the PUD, of other DC hospitals current "financial climate" requiring community hospitals, such as Sibley, "to locate medical office buildings in close proximity to the hospital." The application also claims that a medical office building "is now an integral component of a modern health care facility."

Most of the Medical Centers and Hospital sites cited are in areas of the city very different from this completely low density residential area. In my professional opinion, these examples are not directly applicable to this neighborhood and should not be used as precedents.

The financial climate or future economic hardships are not grounds for re-zoning.

The PUD Proposal

The proposed Medical Office Building would contain a total of 266,151 sq. ft. (111,123 sq. ft. building) plus a garage containing 155,028 sq. ft. for 750 vehicles.

BZA Order 16654 authorized a total of 541, 508 sq. ft. on the existing hospital lot. If the additional 266,000 sq. ft. is authorized, the buildable zoning envelope would increase to 807,659 sq. ft. **Such a building increase and its associated pedestrian movements, to the deli, visitors to the auditorium, automobile and noise activities, will in my opinion overcrowd the site. Further increasing the building mass on the site is contrary to the major Ward 3 Comp. Plan policy to "protect and maintain the low-density, high quality character of the ward".** The Hospital site and the immediate low density residential quality of life will be impacted due to the increase in daily and evening activities.

The applicant's traffic analysis (December 22, 2006) is based on trip generation factors suggested by the Institute of Traffic Engineers (ITE). Further analysis is needed to determine if patient scheduling (15 minute periods) and pharmacy visits are included in the trip generation numbers. If patient scheduling is not included, traffic generation number may result³ over 4,000. Applying the upper range of the ITE rates would certainly

³ As per OP Report Jan. 22, 2007, ITE recommends a ratio of 6 spaces per every 1,000 feet of gross floor area. 3 3

increase the total site trips generated.

DDOT's October 11, 2006 Report indicated that the applicant had not provided sufficient traffic data or proposed measures that allowed DDOT to recommend approval for the traffic study.

The magnitude of the additional somewhat smaller building with its generated activities will make the residential area less desirable.

III. OFFICE OF PLANNING REPORT

The OP January 22, 2007 Report, supports the re-zoning to SP-1 PUD limits, but subjects its recommendation to DDOT's approval of the traffic mitigation measures "to reduce the impact of trip generation on the surrounding neighborhood." **This is an admission on the part of OP that the proposed PUD and map change is damaging to the low density R-1-B/R-1-A areas.**

Yet, to date, DDOT has not committed to undertaking or requiring the applicant to put in place mitigation measures to eliminate the damage or only reduce the adverse traffic impacts. For some time, the neighborhood has been and continues to be adversely impacted by rush hour (back up) thru traffic and bus bay locations and turning traffic associated with the Hospital. Increasing Hospital site activities can only further aggravate the inadequate current situation.

The amenity supported in the OP Report, the purchase of two vans to support IONA's transportation initiatives, is not the type of "public benefits" or amenities called for in the Regulations (Sections 2403.6 & 2403.9). Such vans serve a small specialized portion of the public, not the general public at large.

The "small park area" to the southeastern front of the existing parking lot is not a public benefit. The park area is really part of the site area and isolated by wide streets from possible users in the adjoining neighborhood. The adjoining proposed landscaped area separating the parking lot from a new entrance into the site is not a public benefit since it is needed to screen vehicles from any pedestrians along the sidewalk and is part of good site planning.

The location of the park adjacent to the bus layover area makes the use of the park and landscaped area questionable. This is due to bus fumes generated while standing in the layover area. Very few people will be attracted to this open space.

Table 1 (page 2) of the OP Report should show in the first column the existing R-5-A requirements. The earlier September 29, 2006 Report did show the R-5A standards and it is important to include those standards here for a clear indication of the magnitude of change requested.

Applying that recommendation would increase the 750 garage spaces to 784.

The requested FAR density/height and lot occupancy exceed the current zoning envelope, stretching the PUD flexibility provisions considerably.

R-5-AFAR 0.9Height 40 ft. Lot Occupancy 40%

SP-1 PUDFAR 3.5Height 75 ft. Lot Occupancy 80%

PUD (proposed) FAR 2.14Height 77 ft Lot Occupancy 63%⁴

Page 3 of the OP Report suggests that the 75 foot height limit established in the SP-1 zone can be exceeded through the PUD Regulations flexibility provision and the 5% height increase authorized in Section 2405.3, **"provided the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter."**

The evidence to that effect contained in the OP Report is not contained in the revised application available to the parties. Two feet eight inches extra height above the maximum permitted may be "imperceptible" from the ground level. If permitted, the one family residences across Loughboro Road will see a 77ft.⁵ tall office building from their ground floor living quarters and second floor bedrooms. At night time, lights from the office building and garage will be visible, and at all times, the character of the neighborhood will change due to the new office building.

The 77 ft. building, even with its set back from the street (approximately 345 ft.) will be seen directly from the upper levels of the houses on Watson Street, Partridge Lane and Palisades Lane. **The height of the proposed office building is a visual intrusion into the well established, stable, low density tree lined residential area.** In addition the east elevation of the 3-4 story garage is designed to be 244ft. wide. Adding the office building and garage mass to the existing Sibley complex, intensifies the nonresidential character of the area and the site's proximity to the low density one family houses, **None of these issues are mentioned, considered or addressed in the OP Report.**

The OP Report mentions a new storm water management system to retain runoff on the site. Has the new system been reviewed by the Environmental Health Division of the District? The Report only describes "satisfaction that there is additional landscaping included in the revised plan than previously submitted."

The issue of what the Hospital space will be used for when equipment is moved to the proposed office building (as mentioned on page 4 of the Report), is of concern and should be addressed.

The recommendation section of OP's Report "has no information regarding DDOT's recommendations ... Section 2408.4 of the PUD Regulations requires that OP's assessment "shall include reports in writing from all relevant District agencies and departments ... " Having individual agencies present their recommendations at the hearing does not give the parties adequate response time, and it violates the 10 days before the hearing provision.

⁴ Is this the lot occupancy of the proposed office building or the new lot occupancy for the entire 20 acre Hospital site?

⁵ The building height measuring point is not indicated on the site plan.

The two OP Reports provide an inadequate basis for the claim that a 77 ft. high Medical Office Building with a 750 space garage are compatible uses with immediately adjacent one family homes.

IV. COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL

Various policies in the DC Elements of the Comprehensive Plan for the National Capital (Comp. Plan) apply to the area and provide guidance to the Commission for the proposed PUD and rezoning.

- **The Generalized Land Use Map shows the Sibley Hospital site as Institutional. A commercial office building is inconsistent with that land use designation.**
- **The Generalized Land Use Policies Map is silent as to any proposal for expansion or intensification of the Hospital site. Specific Ward 3 policies should guide any expansion on the site.**

There are general policies dealing with promoting economic development, supporting and maintaining public and institutional health care/delivery uses, transportation improvements and promoting good urban design. The proposed Medical Office Building can be interpreted as meeting some of these general policies.

The applicant mentions these major "Themes" (application page 23) and the Office of Planning, although admitting **"no specific language is provided regarding expansion of the Hospital within the Ward 3 Plan,"** agrees with the applicant that the PUD is in compliance with the Comp. Plan.

We do not agree.

Examining the Ward 3 Plan portion of the Comp. Plan we find several specific policies that indicate that **a commercial Medical Office Building, in a predominantly low density residential area, is inappropriate and incompatible.**

The major theme for Ward 3 (Section 1400.2) is **"protecting the Ward's residential neighborhoods"** and [Section 1400.2(2)] **"Residents seek to ensure that stability is maintained."**

In addition, this policy states that **"it is a major theme of this ward plan to protect and maintain the low-density, high quality character of the ward."** [1400.2(2)].

No significant land use changes are indicated or proposed in the Ward Plan which could support SP zoning.

Section 1400(b) (2) indicates **"The economic development goals for Ward 3 differ from those in other wards ... Rather the issue in Ward 3 is how to channel the very strong momentum of economic development that exists while protecting and enhancing the primarily residential nature of the ward - a quality of life that in turn attracts additional economic pressures for development."**

Section 1401.3(d) of the Ward 3 Economic Development policies requires that **"Any new economic development ... must be evaluated in terms of compatibility and**

potential adverse impacts on neighborhoods." In our opinion, the adverse impacts outweigh the public benefits.

The Ward Plan also contains caution policies dealing with development adjacent to Park land and other open spaces such as the Dalecarlia Reservoir. [Section 1400, 2(c) (I)].

The Federal Parks and Open Space Element contains a Parkways policy which states "The federal government should: **"Encourage local jurisdictions to plan for and zone development in such a way that it is not visible from parkways"**. (Page 127, Fed. Elements Comp. Plan). The PUD would be adjacent to Dalecarlia Parkway. The height and mass of the proposed Office Building would be visible from the Parkway.

There is a specific District Element policy (Section 1401.3) that states **"Commercial development should be strictly limited to areas currently zoned for commercial activity and not be allowed to extend into areas currently zoned residential."**

Urban design policies for Ward 3 contain [Section 1406.5(a)] "Objectives and policies for the natural environment, areas with severe building restraints, and ... " dealing specifically with the Dalecarlia Reservoir grounds. Section 1406.5(a) (3) states **"It is unlikely to see development, which is consistent with the goals and objectives of this plan."**

In addition, Section 1406.5(b) (3) states "Commercial use should not be introduced to areas where none is now present."

An additional specific policy deals with the Sibley Hospital institutional use in the Ward 3. [Section 1409.1(f)].

"There are a large number of institutional uses in Ward 3. These include ... Sibley Memorial Hospital. .. Many of these facilities have structures that are exceptions to the neighborhood's land use or that do not conform to the underlying zoning. The compatibility of these uses must be maintained, expansion carefully controlled, changes to neighborhood related uses encouraged, and conversion to other nonconforming uses prevented." (Emphasis added.)

Interpretation of the District Elements is defined in Section 112 of the Comp. Plan. That section requires giving greater weight to the Land Use Element since it "integrates the policies and objectives of all other District Elements".

Although Section 112.3 of the District Elements of the Plan "are a guide intended to establish broad policies and goals while affording flexibility for future implementation and are not binding policy directives" **the PUD procedures require that the "process shall not be used to circumvent the intent and purposes of the Zoning Regulations, nor to result in action that is inconsistent with the Comprehensive Plan."**

V. REASONS WHY PUD AND MAP AMENDMENTS SHOULD BE TURNED DOWN

1. The rezoning from R-5-A to SP-1 is inappropriate at this location, due to the fact that SP zoning was established to stabilize and provide a transition between C-3-C or C-4 and high density residential zones and no commercial zones exist in the area.

2. If approved, such a zoning change would be contrary to the original intent and purpose of the SP classification.
3. If approved as a Special Exception or Matter-of-Right, such approval would be contrary to Section 2400.5 of the Regulations which prohibits PUD's from being "used to circumvent the intent and purpose of this title."
4. The precedent of approved Medical Office Buildings in connection with other PUD's in the District does not apply to this predominately residential low density housing area.
5. The financial climate is not a basis or grounds for re-zoning.
6. The size and extent of the proposed Office Building is out of character with the neighborhood and would overcrowd the site. It would add considerable building mass and attract activities to the Hospital site causing further excessive vehicular and people traffic and would create commercial activities in a residential area.
7. The DDOT approval of the applicant's traffic mitigation is predicated on mitigations that were unmet conditions in BZA Case No. 16654, approved January 2001.
8. The amenity package suggested does not compensate or outweigh the damage a commercial office building can cause a low-density residential neighborhood.
9. The density, height and lot occupancy requested double the current zoning envelope.
10. A 77 ft. high building will be a visual intrusion as seen from the residential areas, the Parkway and Open Space (Dalecarlia Reservoir) lands.
11. There is insufficient evidence provided by OP that a 77 ft. high Medical Office Building is a compatible use with the adjoining one family houses and open spaces in the area.
12. Pages 6-7 of this Statement list the various District Elements of the Comprehensive Plan for the National Capital with which the proposal is inconsistent.
13. The application seeks additional relief for two or more buildings on a singular lot. (Sections 2516.5 & 2516.6).
14. Section 2516.10 of the Regulations (referrals/coordination reviews) has only partially been met. The OP Report did not include a finding regarding environmental and/or historic preservation and visual impacts on adjacent park land.
15. There is no evidence of need expressed in a "Certificate of Need" issued either by the DC Dept. of Health or the central regional health care agency indicating need for a Medical Office Building.
16. **In my opinion, granting this PUD application would violate the overall goal established in PUD section 2400.2, of protecting and advancing the public health and safety, welfare, and convenience.**

Thank you. I will be pleased to answer any questions.

U. S. GOV'T.
PROPERTY



DALECARLIA'S PKWY.

LITTLE FALLS RD. N. W.

SIBLEY MEMORIAL HOSPITAL
P.A. COUNTY SECYRT. 87 & 19-02.84.7. CURE
WALLS BUILT 1907 COND. 7A FILE A. AP.

1448

PARKS

U. S. GOV'T OCCUPANCY

LOUGHBORO RD. N. W.

1448B

WATSON N. W.

1447

PARTRIDGE LA. N.W.

MANNING PL. N.W.

MAC ARTHUR BLVD. N. W.
(COND. 7A FILE A. AP.)

NORRIS CREST N. W.

1455

N. W.

SHERRIER PL. N. W.

ARK

