

March 5, 2007

VIA HAND DELIVERY

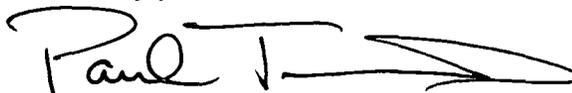
Ms. Carol Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW, Room 210
Washington, DC 20001

**Re: Sibley Memorial Hospital (the "Applicant")
Consolidated PUD and Zoning Map Amendment Application
in Zoning Commission Case No. 05-42
Proposed Findings of Fact and Conclusions of Law**

Dear Chairperson Mitten and Members of the Commission:

As requested by the Commission, enclosed are the Applicant's proposed Findings of Fact, Conclusions of Law, and conditions for the above-referenced case. We look forward to the Commission's decision on this case at the March 12, 2007 Public Meeting.

Sincerely yours,



Paul Tummonds



David Avitabile

Enclosure

2007 MAR 5 PM 1:44
D.C. OFFICE OF ZONING
GENERAL

ZONING COMMISSION
District of Columbia

CASE NO. 05-42

EXHIBIT NO. 208

ZONING COMMISSION
District of Columbia
CASE NO.05-42
EXHIBIT NO.208

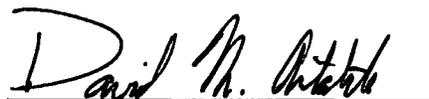
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this letter and enclosure were delivered by hand to the following on March 5, 2007.

Karen Thomas
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, DC 20001

Rachel Thompson
Commissioner, ANC 3D04
5837 Sherier Pl.
Washington, DC 20016

Leonard S. Spector
Sibley Neighbors for Responsible Growth
5224 Loughboro Road, NW
Washington, DC 20036



David M. Avitabile

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-42**

Z.C. Case No. 05-42

**Consolidated Approval for a Planned Unit Development and
Zoning Map Amendment for
Sibley Memorial Hospital
(Square N-1448, Lot 26)**

2007 JUN -5 PM 11:00
D.C. OFFICE OF ZONING
RECEIVED

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on October 12, 2006, February 1, 2007, and February 21, 2007, to consider an application from Lucy Webb Hayes Training School for Deaconesses and Missionaries, doing business under the name Sibley Memorial Hospital ("Sibley") for consolidated review and approval of a planned unit development and related zoning map amendment from R-5-A to SP-1 in Square N-1448, Lot 26. 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. 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. The project site consists of Square N-1448, Lot 26 (the "Property") and is bounded by Loughboro Road, Dalecarlia Parkway, Little Falls Road, and MacArthur Boulevard. The Property contains approximately 20.48 acres of land area and is in the R-5-A Zone District. The Applicant has operated a hospital and related facilities on the site since 1961.

2. On December 22, 2005, Sibley (the "Applicant") filed an application with the Zoning Commission for review and approval of a planned unit development ("PUD") and related Zoning Map Amendment from R-5-A to SP-1 for a 2.86-acre portion of the Property. The PUD project includes construction of a new medical office building (the "MOB") and parking garage. The original application requested a height of 90 feet for the MOB and a four-level, 600 space parking garage.

3. At a public meeting on April 20, 2006, the Commission set down the application for a public hearing. During the discussion, the Office of Planning ("OP") recommended that the PUD be set down with a zoning map amendment to the SP-2 Zone District, in order to accommodate the height of the MOB without using Section 400.9. OP also indicated that the Applicant had amended its application to add an additional level to the parking garage structure, increasing the number of parking spaces to 750. Accordingly, the Zoning Commission voted to set down the application with a map amendment to the SP-2 Zone District to accommodate the proposed height. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the D.C. Register on [date], [] D.C. Reg. [], and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission ("ANC" 3D).

4. On June 9, 2006, the Applicant filed a prehearing statement with the Zoning Commission, including additional information requested by the Zoning Commission and the Office of Planning, and the Application was further updated by a supplemental submission filed on September 21, 2006.

5. The parties to the case were the Applicant, ANC 3D, and the Sibley Neighbors for Responsible Growth ("SNRG"). The Zoning Commission opened the public hearing on October 12, 2006. At that time, the Applicant requested a continuance in order to address concerns raised by the District Department of Transportation ("DDOT"), and the Commission voted 3-0-2 to grant the motion. The public hearing was continued to February 1, 2007.

6. On October 16, 2006 and January 22, 2007, the Applicant submitted additional information to the Commission, including revised plans that indicated the height of the MOB had been reduced to 77 feet, 4 inches and that one story of the parking garage had been placed below-grade, as viewed from Loughboro Road. Accordingly, the Applicant amended the rezoning request to the SP-1 Zone District.

7. The public hearing continued on February 1, 2007 and concluded on February 21, 2007. During the public hearing, the Commission heard testimony and received evidence from the Applicant, ANC 3D, SNRG, OP, DDOT, as well as from persons and organizations in support of, and in opposition to, the application.

8. The Applicant provided additional information in response to the Commission's comments and concerns in both the Applicant's rebuttal testimony (February 21, 2007) and in the Applicant's post-hearing submission dated February 26, 2007.

9. At its meeting held March 12, 2007, the Commission took proposed action by a vote of _____ to approve the application with conditions.

10. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated _____, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capitol.

11. The Commission took final action to approve the application in Case No. 05-42 on _____ by vote of _____.

The PUD Project

12. The Property consists of approximately 20.48 acres of land area and is bounded by Loughboro Road, Dalecarlia Parkway, Little Falls Road, and MacArthur Boulevard, NW. The Property currently contains the Sibley Memorial Hospital at its center, the Grand Oaks Assisted Living Facility in its southwest corner, and the Renaissance Skilled Care Nursing Facility between the Hospital and Grand Oaks. To the south are the Kent and Palisades residential neighborhoods. The rest of the Property is surrounded by land associated with the Dalecarlia Reservoir. The reservoir itself lies to the north, straddling the Maryland-D.C. border.

13. The southern portion of the Property is located in the Institutional land use category, as shown on the District of Columbia Generalized Land Use Map. The northern portion of the Property is located in the Parks, Recreation, and Open Space category; at the time that the Generalized Land Use map was last revised, this portion of the property was owned by the Washington Aqueduct. The Kent and Palisades neighborhoods to the south are located in the Low Density Residential land use category. The Dalecarlia Reservoir land to the west, north, and east is located in the Parks, Recreation, and Open Space land use category.

14. The proposed Project consists of the construction of the MOB and parking garage on the northeast portion of the Property, which is currently used as a surface parking lot. The Applicant has sited these structures on the Property so as to maintain a large buffer area from the existing homes on Loughboro Road. The MOB will consist of offices for physicians, a data center (which houses computer servers, HVAC services for the servers, and IT Department space), and associated outpatient services on the ground and first floors. The proposed outpatient services include: an outpatient surgery center, a pharmacy, a diagnostic center, and a café. These services, combined with the presence of the doctors themselves, will greatly expand the health care options for Sibley's patients. The MOB will also include a new auditorium to replace the existing Ernst Auditorium, which will include seating for 240 people. Tr. Feb. 1, 2007 at 29-31.

15. As presented by the Applicant's architectural expert and set forth in the Applicant's pre- and post-hearing submissions, the MOB will be seamlessly integrated with the rest of the medical campus. The 77.33 foot MOB is shorter than existing buildings on the Property, such as the patient tower and Hayes Hall, which have heights of 83.4 feet and 79.5 feet, respectively. The exterior design character of the MOB and garage will be sympathetic with existing campus architecture. On the proposed facades, brick colors, bond patterns, and pre-cast concrete horizontal banding treatments used on existing campus buildings will be used to help create a cohesive continuity of design. A combination of aluminum curtain wall and windows will be used to add a contemporary quality to the façade compositions. Horizontal window fenestration patterns borrowed from the existing patient tower will also be utilized. Tr. Feb. 1, 2007 at 30-35.

16. The Parking Garage is designed to blend in with the rest of the campus and surrounding green space. In response to community concerns about the sufficiency of parking provided in this project, the parking garage includes 750 spaces on five levels. As viewed from Loughboro Road, the garage only provides only three floors of parking above grade (including the roof level). Moreover, on this south elevation, which is most visible to the public, special attention will be paid to develop an attractive façade, borrowing brick colors, precast accent banding, and fenestration opening patterns from the new MOB and create an articulated streetscape face. Moreover, the garage will utilize brick veneer and spandrel walls with punched openings to add architectural interest and minimize the visual impact of the garage and parked automobiles. Additional boulevard street tree plantings and upper deck level planter screening will further screen the garage face from the neighboring properties across Loughboro Road. Tr. Feb. 1, 2007 at 35-36.

17. The Applicant will improve the existing entrance to the Hospital off Dalecarlia Parkway and will create a beautifully landscaped entry to the Campus. Extensive landscaping will enhance the open space buffer between the MOB and the Hospital's neighbors to the south.

As part of this improvement, the Applicant will create a park at the southeast corner of the Property, near the intersection of Loughboro Road and Dalecarlia Parkway. The proposed park will be located on Sibley's property as well as public space. The Applicant will enter into a landscaping and maintenance agreement with appropriate District agencies to assure that the park area is appropriately maintained. Tr. Feb. 1, 2007 at 44-47.

18. The garage will include approximately 750 parking spaces. However, the location of the garage on the site of existing surface parking spaces results in a net gain of approximately 421 parking spaces. Additionally, the Hospital currently has an inventory of approximately 360 unused spaces. Therefore, a total of approximately 781 parking spaces will be available to the physicians, staff, and patients of the MOB, at a ratio of 6.9 spaces per 1,000 square feet of gross floor area. Loading and service facilities will be accessible off Little Falls Road and will be located between the MOB and garage at the rear of the Property, behind a decorative screen wall. Tr. Feb. 1, 2007 at 31-32.

19. Several sustainability initiatives will be included as a part of the Project. Three bio-retention areas, which are designed to absorb and filter water through natural processes, are proposed for stormwater quality control. A sandfilter is also proposed for both stormwater quality and quantity control. Additionally, a rainwater harvesting system will be used to collect stormwater in a cistern. This will reduce the amount of water going into the bioretention and sandfilter areas, and the collected stormwater will be used to irrigate landscaping and help satisfy the non-potable water needs of the MOB and hospital. A cool roof system is proposed for the roof of the MOB as well as portions of the parking deck roof. Other initiatives include high-performance glazing for the glass used in the MOB and use of recycled materials during construction. The Project results in a net increase in impervious surface area of less than 1%. Tr. Feb. 1, 2007 at 36-39.

20. The MOB measures 77 feet 4 inches tall. As testified to by the Applicant's architectural expert, the additional 2 feet 4 inches is necessary to accommodate mechanical equipment between floors and is essential to the successful functioning of the Project. Tr. Feb. 1, 2007 at 41.

21. The total gross floor area included in the proposed PUD is approximately 268,151 square feet for a total Floor Area Ratio ("FAR") of approximately 2.15 on the Rezoned Property (described below). As mentioned, the MOB will have a height of 77 feet 4 inches, and the parking garage features three levels above grade as viewed from Loughboro Road. The proposed project will have a lot occupancy of approximately 62% on the Rezoned Property. The proposed project has a FAR that is significantly less than what is permitted under the SP-1 District PUD Guidelines (maximum FAR of 3.5). Indeed, discounting the gross floor area for the garage, the project has a FAR of only 0.91, which is consistent with the FAR of the remainder of the Sibley campus (0.89 FAR).

22. The Project will not cause adverse traffic impacts, as demonstrated by the Applicant's Traffic Study and supplemental traffic reports, as well as the testimony presented by the Applicant's traffic consultant during the public hearing. The traffic impacts would be offset by a series of mitigation measures, including the implementation of a signalization timing adjustment at Loughboro Road and MacArthur Boulevard, reconstruction of the Dalecarlia

Parkway/Loughboro Road intersection, addition of signage to direct traffic to Little Falls Road, and a comprehensive Transportation Management Plan that includes a shuttle bus to the nearby Friendship Heights-Metrorail station. The shuttle bus will provide continuous daily service to the Metro station for the project's employees, patients, and visitors, as well as those using the rest of Sibley campus. The shuttle bus will also be available for public use. Tr. Feb. 1, 2007 at 47-57.

23. In response to concerns raised by DDOT and the community, the Applicant's traffic consultant undertook a series of additional studies and analyses of the proposed PUD's effects on vehicular and pedestrian traffic. In response to issues raised by DDOT in its October 12, 2006 Report, the Applicant's traffic consultant provided DDOT and the parties with information on pedestrian levels of service and safety, speed survey data, the Loughboro Road/Dalecarlia Parkway intersection redesign, and additional intersection analyses. Additionally, the Applicant's traffic consultant provided DDOT and the parties with a supplemental traffic analysis, which summarized the trip generation impact of the reduction in height and density of the MOB. Finally, in response to DDOT's request, the Applicant's traffic consultant provided DDOT and the parties with information on peak hour trips, a multi-way stop warrant analysis for the Loughboro/Dalecarlia intersection, and information on diagnostic space in the proposed MOB. Tr. Feb. 1, 2007 at 57-60.

24. The Applicant's representative indicated that they had engaged the community and the city extensively in the development of the project, through numerous presentations to both ANC 3D and the Palisades Citizens' Association. The Applicant also met with both community leaders and individual neighbors to assess their reactions and solicit their suggestions for the project. Their comments have been integrated into the design for the proposed Project, the decision to rezone only a portion of the Property, the decision to reduce the height of the MOB by one floor, and the decision to add an additional level of below-grade parking, while reducing the visual impact of the parking garage. Tr. Feb. 1, 2007 at 19-25.

25. The Applicant's representative testified as to the need for the MOB. In written submissions and oral testimony, the Applicant demonstrated that most modern community hospitals have a medical office building their campus, and asserted that the MOB would counteract the high cost of practicing medicine in the District. Finally, the Applicant's representative testified that the MOB would provide convenience and accessibility for patients and doctors alike, improve the productivity and efficiency of physicians at the hospital, and provide Sibley with a non-insurance-based sources of revenue. Tr. Feb. 1, 2007 at 18-19.

26. The Applicant's representative also testified regarding the demonstrated interest of physicians in leasing office space in the MOB. In response to a mailing send to existing Sibley doctors regarding interest in the MOB, the hospital received signed interest for over 137,000 square feet of office space. The Applicant submitted letters from two commercial real estate firms indicating that the hospital could expect a minimum of 45-60% of the signed interest would convert into closed lease conversions, which would fill the MOB. Tr. Feb. 21, 2007 at ___.

Zoning Map Amendment

27. The Property is located in the R-5-A Zone District. The R-5-A District, as a matter of right, permits a maximum building height of 40 feet¹, a maximum FAR of 0.9, and a maximum lot occupancy of 40%.

28. The Applicant has requested a PUD-related Zoning Map Amendment for a portion of the Property in the northeast corner of the hospital campus to the SP-1 Zone District (the "Rezoned Property") in order to allow for the medical office and retail uses, and to allow the structures to obtain the requested height and density. Tr. Feb. 1, 2007 at 13-14; 26-27. The SP-1 District, as a matter of right, permits a maximum height of 65 feet, a maximum FAR of 2.5 for nonresidential permitted uses, and a maximum lot occupancy of 80% for residential use. In the SP District, construction of a new office building and a parking structure are only permitted if approved by the Board of Zoning Adjustment ("BZA") as a special exception. The PUD guidelines for the SP-1 District allow a maximum height of 75 feet and a maximum FAR of 3.5 for non-residential uses. Additionally, the PUD guidelines allow the Commission to authorize an increase of not more than 5% in the maximum height or FAR, provided that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations. The proposed SP-1 zoning will allow for the medical office uses, which are consistent with other uses that occur on the hospital campus. The Commission approved a substantially similar PUD-related rezoning from R-5-A to SP-1 for portions of the Washington Hospital Center in order to allow for the construction of a physician's office building and parking structure in Z.C. Order. No. 784.

29. Further, the requested rezoning to SP-1 is part of a PUD application, which allows the Zoning Commission to review the design, site planning, and provision of public spaces and amenities against the requested zoning relief. In Zoning Commission Order No. 921, a PUD and Zoning Map amendment case in Ward 3, the Zoning Commission clearly articulated the legal standard for reviewing PUD-related Zoning Map amendments:

A PUD Map amendment is thus a temporary change to existing zoning, that does not begin until a PUD Covenant is recorded, ceases if the PUD is not built and ends once the PUD use terminates. This being the case, the Commission may grant PUD related map amendments in circumstances where it might reject permanent rezoning.

Z.C. Order No. 921 at 15 (COL 5). The Commission added:

A map amendment granted as part of a PUD establishes no precedent for zoning cases involving permanent zoning map amendments. A PUD map amendment is tied to the PUD use. The PUD use is constrained by covenant. Therefore, the merits of such amendments are usually analyzed in the narrow context of the PUD use requested.

Id. at 17 (COL 13). Finally, the Commission observed:

¹ Institutional buildings "may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the district in which it is located." See 11 DCMR § 400.9.

A PUD applicant seeking a related map amendment must still demonstrate that public health, safety, and general welfare goals of the zoning regulations would be served by the amendment.

Id. at 16 (COL 6); see Tr. Feb. 21, 2007 at ___; Ex. 204 (Applicant's Post-Hearing Submission dated February 26, 2007).

30. In this case, the Commission finds that the proposed PUD-related map amendment of the Property to the SP-1 District is appropriate given the superior features of the PUD project, and is only permitting a maximum density of 2.15 FAR in the SP-1 District on this Property. The Commission agrees with OP's conclusion that granting the requested Zoning Map Amendment will permit the development of the medical office building which will allow Sibley Hospital to provide more efficient and effective delivery of health care services and will promote the public health, safety and general welfare of the District of Columbia. Therefore, the Applicant has satisfied its burden of proof in order for the Zoning Commission to approve the proposed Zoning Map Amendment.

31. The Applicant provided a written submission to the Commission regarding an allegation that the proposed rezoning would constitute illegal "spot zoning." The Applicant noted that the rezoning does not affect a "limited area" and is not for the benefit of a single interested party. The Applicant is requesting to rezone a site that is approximately 2.86 acres in size: a significant size that is difficult to characterize as "limited." In previous cases where courts have found that the first prong of the "spot zoning" analysis (described below) was satisfied, significantly smaller parcels of land ranging from 14,000 square feet (Daro) to 3.17 acres (Citizens Ass'n of Georgetown) were involved. All but one of the cases involved parcels of land that were less than 2 acres in size. Here, the Rezoned Property can hardly be defined as having a "limited area" and its significant size bolsters the fact that the first prong of the test is not satisfied. See Ex. 204 (Applicant's Post-Hearing Submission dated February 26, 2007).

32. The Applicant also noted that the rezoning is in harmony with the comprehensive plan, the character of the surrounding property and the purposes of zoning regulations. The proposed SP-1 Zone District is entirely consistent with the Institutional Land Use designation for the majority of the Sibley Hospital campus, as well as the hospital and related uses that occupy the site. Moreover, as detailed in the Applicant's pre-hearing submission and the OP Final Report, the rezoning is consistent with the themes, elements, and policies of the Comprehensive Plan as well as the purposes of the Zoning Regulations.

Development Incentives and Flexibility

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

- a. Pursuant to Section 2405.3, a maximum height of 77 feet 4 inches in order to accommodate necessary mechanical equipment between floors. This is essential to the successful functioning of the Project.

- b. Approval for the office and parking garage uses, which are permitted by special exception under Sections 506.1 and 508.1 of the Zoning Regulations (Parking Garages (SP) and Office Uses (SP), respectively). The Zoning Commission has the authority to grant approval of both special exceptions pursuant to Section 2405.7 of the Zoning Regulations. The Zoning Commission is not required to apply the special exception standards normally applied by the BZA (see Section 2405.8 of the Zoning Regulations).
- c. Approval for the construction of multiple structures on a single record lot, which is permitted by special exception under Section 2516.4 of the Zoning Regulations (Exceptions to Building Lot Control (Residence Districts). Again, the Zoning Commission has the authority to grant approval of both special exceptions pursuant to Section 2405.7, and is not required to apply the special exception standards normally applied by the BZA.
- d. Flexibility from the Zoning Regulations' roof structure requirements.

Public Benefits and Amenities

34. The Applicant, in its written submissions and testimony before the Commission, noted, the following benefits and amenities will be created as a result of the Project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403. Tr. Feb. 1, 2007 at 23-25.

- a. Efficient and Safe Vehicular and Pedestrian Access. The PUD features the following amenities:
 - i. A shuttle bus providing continuous weekday service to the nearby Friendship Heights Metrorail station from 6:00 AM to 5:00 PM.
 - ii. Financial contribution of 100% of the traffic engineering and construction costs of the redesign and reconstruction of the intersection of Loughboro Road and Dalecarlia Parkway. The Applicant shall work with DDOT to install active warning signs and pavement markings at the intersection for pedestrian access and safety. The intersection design shall include a layover lane exclusively for use by buses.
 - iii. Compliance with a Transportation Management Plan, which includes: traffic routing program to route traffic to Little Falls Road; the shuttle bus and information dissemination to encourage use of shuttle bus; dedicated parking spaces and ridesharing matching incentives to encourage carpooling; bicycle parking spaces adjacent to the MOB; a pre-tax transit benefits program for employees; and a quarterly report to DDOT that includes details on the utilization of the carpool and shuttle bus services (derived from data obtained in a typical week) as well as details on the utilization of the transit benefits program.
 - iv. Provision of ample parking, equivalent to a ratio of 6.9 parking spaces for every 1,000 square feet of medical office space, which exceeds industry

standards. In order to further mitigate any adverse parking impacts that may result from the MOB, the Applicant has agreed to include a provision in all leases that employees of each doctor's office provide onsite parking for their employees.

- b. Urban Design, Architecture, and Open Spaces. The MOB features high quality design that creates an attractive addition to the Hospital in a campus-like setting on the Property. The garage replaces unattractive surface parking with a sensitively landscaped structure that ensures ample parking onsite. The project also includes the creation of a landscaped park and relocated bus stop and layover that will provide aesthetic benefits to the neighborhood.
- c. Site Planning, and Efficient and Economical Land Uses. The Applicant has sited the new structures at the back of the Subject Property to minimize the impact on the surrounding neighbors and maintain the development buffer along Loughboro Road. At the same time, the Hospital is a logical site for a physicians' office building that promises increased efficiency and expanded care options, particularly for outpatient services. The proposed site plan complements the Hospital's advanced medical facilities yet minimizes its impact on its residential neighbors.
- d. Social Services and Facilities. The project provides a host of social services to the community and the District as a whole. Primarily, the MOB enhances the quality of ambulatory care that Sibley may provide to its patients. It helps draw and retain top-quality physicians and strengthens the financial position of the Hospital. It also provides an integrated set of outpatient services that will provide alternatives to hospitalization. In addition to adding neighborhood physicians, it also adds amenities such as medical retail space that will provide convenient services to the surrounding community.

Moreover, as a benefit of the PUD, Sibley will partner with Iona Senior Services, a local organization that provides assistance to the elderly, to enhance services available to senior citizens in the surrounding neighborhoods. Specifically, Sibley will contribute \$140,000 to Iona for the purchase of two vans and other improvements to assist Iona with the transportation services that it provides to seniors in the Northwest Washington community.

Finally, Sibley currently provides a host of amenities to the surrounding community and city. Foremost is the amount of free medical care Sibley provides to those who need it most; in 2005, the Hospital provided \$7.12 million in uncompensated care. That number was approximately \$8.8 million in 2006. Sibley is a Catholic Charities partner; it gives more outpatient surgery and diagnostics than any other D.C. Hospital, and is second in the amount of inpatient care that is given. The Hospital is also affiliated with other District clinics, such as Community of Hope and Healthcare for the Homeless. Additionally, the hospital promotes its fitness and wellness programs to the neighborhood through ads in the Northwest Current and in quarterly and monthly publications. In particular, Sibley serves as a home for Ward 3's senior community, through its 8,000 member Sibley Senior Association.

Membership in the Senior Association gives access to free parking; health screening for glaucoma and flu shots; health services such as blood pressure checks and pharmacy consults; support groups for cancer, diabetes, Alzheimer's, Parkinson's, and widowed persons; and exercise and recreation programs.

- e. Uses of Special Value. The MOB brings a comprehensive set of on-site primary care physicians, specialists, and outpatient services that makes Sibley a true full-service community medical center of special value. The MOB's proposed ground-level amenities further enhance the value of this facility. Sibley serves as a community center as well, and the construction of the replacement auditorium adjacent to the MOB will allow community groups, such as the ANC, to hold their meetings in a more comfortable setting.
- f. Environmental Benefits. By locating the MOB and garage on land that is currently used as surface parking, the Project results in a net increase of impervious surface of approximately 0.5%. The project will also be designed to meet sustainable strategies which would represent approximately 16 points under USGBC's LEED for New Construction, version 2.2. The Project features a comprehensive set of low-impact development features, including reflective membrane roofing and concrete paving to reduce the heat island effect, bio-retention technologies to provide stormwater quality and quantity control, and rain harvesting technologies to provide irrigation water for landscaped areas.
- g. Employment and Training Opportunities. In order to further the District's policies relating to the creation of employment and training opportunities, the Applicant has indicated that it will participate in a First Source Agreement with the District of Columbia Department of Employment Services. The Applicant also has agreed to enter into a Memorandum of Understanding with the Local Business Opportunity Commission to use local firms in the development and construction of the Project.
- h. Consistency with the Comprehensive Plan. The PUD advances the major themes as well as polices and objectives of the elements of the Comprehensive Plan. The Project increases the stability and strength of the hospital, and benefits the surrounding community with a convenient and efficient physician presence. Additionally, the Project respects and improves the physical character of the District through high-quality design, transportation improvements, and sustainability and landscaping initiatives. Finally, the Applicant has demonstrated a commitment to preserving and ensuring community input by making numerous presentations and modifying the Project design to remove one floor of the MOB and place one floor of the garage underground.

Compliance with PUD Standards

35. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." 11 DCMR § 2403.8. Given the level of project amenities and public benefits, the Commission finds that the development

incentives for the proposed 77 foot 4 inch height, 2.15 FAR, and related rezoning to SP-1 are appropriate, and that the requested increase in height above the PUD guideline is essential to the successful functioning of the project and is consistent with the purpose and evaluation standards of Chapter 24 of the Zoning Regulations. The Commission also finds that the requested approval for building lot control and office and parking garage uses, as well as the requested flexibility from the roof structure requirements, are fully justified by the superior benefits and amenities offered by this Project.

36. The Commission finds that the Project is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to urban design, landscaping and open space, site planning, job training and employment opportunities, transportation measures, social services, environmental benefits, and uses of special value to the neighborhood and District as a whole. The Commission finds that the Applicant's proposal to pay for the engineering and construction costs of the new intersection at Dalecarlia Parkway and Loughboro Road, as well as the Applicant's Transportation Management Plan, mitigate any potential adverse traffic impacts that may occur as a result of this application.

Government Agency Reports

37. By report dated January 22, 2007 and by testimony at the public hearing, OP recommended approval of the application pursuant to SP-1 limits and subject to DDOT's recommendation of approval. OP's support was based on the Applicant's agreement to remain within the SP-1 PUD guidelines, in keeping with community concerns regarding height, density, and traffic impacts. OP observed that the application falls within the SP-1 PUD guidelines with the requested flexibility to accommodate the proposed height of 77 feet 4 inches. OP further stated that it believed the requested 2 foot, 4 inch increase above the SP-1 PUD permitted height would be "visually imperceptible". OP requested that the Applicant provide details on the intended use of the leftover space created once existing hospital uses are transferred to the MOB. OP supported the proposed mitigation measures and amenities, including the intersection reconstruction, the sustainable design elements, the contribution to IONA Senior Services, and the Transportation Management Plan. ~~By report dated September 29, 2006, OP found that the Project is consistent with the Comprehensive Plan, including the Generalized Land Use map designations of the Property, and will further important Comprehensive Plan themes and elements. OP further stated that "similar uses and subsequent rezoning to the SP-1 Zone District is prior applications have been deemed consistent with the Comprehensive Plan."~~ Tr. Feb. 1, 2007 at 163-68, 170, 176-77.

38. By report dated January 25, 2007, DDOT concluded that it has no objections to the proposal. DDOT indicated support for the proposed PUD and stated that the Applicant had responded to comments and recommendations raised by DDOT in its initial report dated October 11, 2006. DDOT observed that the Applicant had agreed to reconstruct the Dalecarlia Parkway/Loughboro Road intersection, and requested that the Applicant install active warning signs and pavement markings on Dalecarlia Parkway to slow vehicles approaching the entrance. DDOT further observed that a traffic signal was not warranted for the new intersection. DDOT noted that the pedestrian safety analysis indicated pedestrian levels of service would not change under future conditions. DDOT found that future levels of service at additional area intersections would not be adversely affected by the MOB. DDOT supported the Transportation

Management Plan proposed by the Applicant, including the shuttle bus. DDOT recommended that the Applicant provide quarterly reports on the utilization of the shuttle bus, public transit, and other Transportation Management Plan measures. Finally, by report dated January 26, 2007, DDOT concluded that the Applicant was in compliance with the conditions of previous orders of the Zoning Commission and Board of Zoning Adjustment. Tr. Feb. 1, 2007 at 179-93.

ANC 3D Report

39. By report dated October 5, 2006, and by testimony at the public hearing, representatives of ANC 3D indicated that at a duly noticed meeting in September 2006, with a quorum present, ANC 3D voted to approve the hospital's application. The ANC's vote was conditioned on recommendations to remove two floors from the then-90 foot MOB, as well as one level of parking so that a maximum of 525 parking spaces would be included, and change the requested rezoning from SP-2 to SP-1. ANC 3D also proposed 11 conditions regarding traffic, buffering, and amenities. Tr. Feb. 21, 2007 at ___.

Persons in Support

40. Over 85 individuals and organizations testified in support of the application through letters to the Commission and testimony at the public hearing. Those testifying in support included residents of the neighboring Palisades and Kent neighborhoods as well as physicians. The current and former Councilmembers for Ward 3, the Ward in which Sibley is located, also submitted letters in support of the proposed PUD.

41. Mr. Stuart Ross and Ms. Penny Pagano testified in support on behalf of the Palisades Citizens' Association ("PCA"), which represents approximately 1,700 households in the Palisades neighborhood. Mr. Ross testified that the PCA had voted to endorse the Project at its June 2006 meeting. Mr. Ross indicated that the PCA supported the Project in large part because features of the PUD such as the ample parking and shuttle bus, ameliorated its impacts on those residential areas immediately adjacent and contiguous to the hospital. Tr. Feb. 1, 2007 at 231-35.

42. Mr. Vince Treacy testified in support on behalf of the Spring Valley West Homes Corporation ("Spring Valley West"), which represents 155 homes in a community southeast of the hospital. Mr. Treacy testified that the board of directors of Spring Valley West had unanimously voted to support the proposed PUD in September 2006, and that the vote was endorsed by the entire membership of the association at its annual membership meeting in January 2007. Mr. Treacy indicated that Spring Valley West supported the Project as essential to the continued economic viability of the hospital, and believed that the traffic impact would be reasonable. Tr. Feb. 1, 2007 at 236-38.

43. Ms. Barbara Lang, President and Chief Executive Officer of the D.C. Chamber of Commerce, testified in support both as a representative of the D.C. Chamber and as a 20-year resident of the Palisades neighborhood. Ms. Lang testified that the proposed Project would encourage doctors to stay in the District, and was necessary to protect patient access to quality health care. Ms. Lang also testified that the MOB would serve as a great community resource

that would provide convenience for both doctors and patients and help ensure Sibley's continued economic competitiveness. Tr. Feb. 1, 2007 at 238-41.

44. Drs. Janelle Goetcheus and John Marlow, two physicians practicing in the District, testified in support of the PUD. Dr. Goetcheus testified regarding the free care—including laboratory tests, admissions, and prescription medicines—that Sibley regularly provides to uninsured patients from community health organizations. Dr. Marlow testified regarding the importance of retaining physicians for the continued economic viability of hospitals in the District. Dr. Marlow, who noted he lived in the neighborhood of the hospital, also testified in support of the shuttle bus and other transit initiatives, and indicated that co-locating medical offices with a diagnostic center and hospital was a benefit to both patients and physicians. Tr. Feb. 1, 2007 at 241-50.

45. Mr. Andrew Diem, a resident of Loughboro Road immediately across the street from the main entrance of Sibley Hospital, testified in support of the proposed PUD. Mr. Diem testified that the MOB would not change the residential character of the neighborhood, because it was being located at the rear of the Property. Mr. Diem further testified that the height of the MOB would be consistent with Sibley's other buildings, and would not cast shadows on any residential buildings in the area. Mr. Diem also testified that the traffic generated by the MOB would not have any appreciable impact on the neighborhood. Mr. Diem noted that most traffic problems were caused by commuter traffic during the morning and evening rush hours, and accordingly did not believe a reduced, less effective MOB was either necessary or desirable. Tr. Feb. 1, 2007 at 251-54.

Party in Opposition

46. The Sibley Neighbors for Responsible Growth ("SNRG"), by testimony at the public hearing, opposed the application. SNRG argued that (1) there was no demonstration that the proposed medical office building would strengthen the hospital and attract physicians; (2) the proposed amenities were worthwhile but not sufficient; (3) the traffic and other impacts generated by the Project would adversely affect the surrounding neighborhood; and (4) the hospital had failed to comply with conditions of previous Zoning Commission and Board of Zoning Adjustment orders. In addition, SNRG's planning expert testified that the proposed rezoning to SP-1 was inappropriate "spot zoning" and that the application misused the PUD process to circumvent the purpose of the Zoning Regulations. He also testified that fiscal reasons could not be grounds for approval of a PUD or rezoning, and that there was no demonstrated need for the medical office space. Tr. Feb. 21, 2007 at ___.

Persons in Opposition

47. Approximately 50 individuals, through written submissions or testimony at the public hearing, noted opposition to the Project. Concerns were raised related to the Project's design, its traffic and parking impacts, and a lack of demand or need for a medical office building adjacent to Sibley. Tr. Feb. 21, 2007 at ___.

Satisfaction of the PUD and Zoning Map Amendment Approval Standards

48. The Commission credits the written submissions and testimony of the Applicant and OP that the proposed PUD and rezoning to SP-1 are appropriate and that the proffered amenities and benefits are acceptable. The Commission also credits the testimony of OP that the proposed Project and rezoning are consistent with the Comprehensive Plan, including the District of Columbia Generalized Land Use Map. The Commission notes that the Applicant has proffered a condition to limit the use of leftover space created by the relocation of existing hospital uses, and finds it to be responsive to OP's concern regarding additional impacts.

49. The Commission agrees with DDOT's conclusion that the Applicant has fully addressed parking and traffic issues associated with the proposed development. The Commission credits DDOT's testimony that the traffic impacts of the Project will be mitigated by specific measures, including the TMP, the signal optimization measures, and the reconstruction of the Dalecarlia Parkway and Loughboro Road intersection. The Commission concurs with DDOT that the quarterly reports, which will include details on the utilization of the shuttle bus and the transit benefits program, will ensure that the Project's traffic impacts continue to be mitigated.

50. The Commission accorded ANC 3D the "great weight" to which it is entitled. In so doing, the Commission fully credited the unique vantage point that ANC 3D holds with respect to the impact of the proposed PUD on the ANC's constituents. The Commission is persuaded that the proposed medical office and garage uses and SP-1 zoning request are appropriate. The Commission recognizes that the Applicant responded in part to ANC 3D's recommendation by reducing the MOB by one floor to 77 feet 4 inches. The ANC has not offered persuasive evidence, however, that would cause the Commission to find that the reduction in height to 65 feet is necessary.

51. The Commission is also not persuaded by the ANC's proposed conditions. The Applicant has proffered a series of conditions designed to mitigate traffic impacts, provide landscaping and visual buffering, and provide significant amenities and benefits to the surrounding community, and the Commission finds that these conditions of approval are sufficient given the development incentives and flexibility requested. The Commission also notes that the majority of the conditions proposed by ANC 3D were accepted and proffered by the Applicant.

52. The Commission credits the testimony and evidence provided by the Applicant regarding the existence of adequate interest and demand for office space within the proposed MOB.

53. The Commission credits the testimony of DDOT that the Applicant has complied with all previous conditions in orders of the Zoning Commission and the Board of Zoning Adjustment.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of

desired public spaces and other amenities." 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, the Commission has the authority to consider this application as a consolidated PUD. 11 DCMR § 2402.5. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, and yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. 11 DCMR § 2405.

3. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.

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

5. The application meets the contiguity requirements of § 2401.3.

6. The proposed height and density will not cause a significant adverse effect on any nearby properties and will, in fact, include less density on the site than is permitted as a matter of right under the proposed SP-1 zoning. The medical office and garage uses are appropriate for the site, which includes the location of the Sibley Memorial Hospital and other related uses. The impact of the project on the surrounding area is not unacceptable. As demonstrated in the Traffic Study submitted by the Applicant, the Project will not cause adverse traffic impacts and the Property is accessible to mass transit, especially with the creation of the shuttle bus service from the Friendship Heights Metrorail Station.

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

8. The benefits and amenities provided by the Project, particularly the provision of sustainable design features, exemplary architecture, landscaping features, parking, contribution to IONA Senior Services, and substantial contributions to improve mass transit access and service, are reasonable for the development proposed in this application.

9. The application seeks a PUD-related zoning map amendment to the SP-1 District, and an increase in height and density as permitted under the PUD guidelines, as well as an increase above the maximum height of not more than 5%. The application also seeks flexibility from the building control requirement, roof structure, and approval of medical office and parking garage uses. The benefits and amenities provided by the Project are all reasonable trade-offs for the requested development flexibility. Moreover, the increase in height above the maximum height guideline is essential to the successful functioning of the Project.

10. Approval of the PUD and change in zoning is not inconsistent with the Comprehensive Plan, including the current designation of the Property in the Institutional land use category on the Generalized Land Use Map. The Commission notes that it approved a substantially similar PUD and rezoning from R-5-A to SP-1 in Z.C. Order No. 784 specifically to allow for the construction of a physicians' office building and parking garage at the Washington Hospital Center.

11. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The Project is consistent with the following major themes of the Comprehensive Plan: stabilizing the District's neighborhoods, respecting and improving the physical character of the District, and preserving and ensuring community input. The Project is also consistent with many major elements of the Comprehensive Plan, including the Transportation, Urban Design, and Human Services elements, as well as the goals and policies of the Ward 3 element.

12. The Commission is required under D.C. Code § 1-309.10(d)(3)(A) (2001) to give "great weight" to the issues and concerns of the affected ANCs. As is reflected in the Findings of Fact, ANC 3D voted in favor of approving the application. The Commission agrees with the ANC that this Project should be approved, that the medical office and garage uses are appropriate, and that the rezoning request to SP-1 is appropriate. The Commission disagrees with the ANC's recommendation to remove an additional floor from the medical office building or parking garage. Rather, the Commission is persuaded that the height, density, and design, as proposed by the Applicant, are appropriate. Further, the Commission disagrees with the ANC's assertion that additional conditions are required. Substantial efforts have been made by the Applicant to minimize impacts associated with the medical office building and garage. In addition, the Commission notes that the Project has received support from neighborhood organizations and both the current and recently elected Councilmembers from Ward 3.

13. The PUD and rezoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

PUD Related Zoning Map Amendments.

14. The Commission notes that the Zoning Regulations treat a PUD-related Zoning Map amendment differently from other types of rezoning. PUD-related Zoning Map amendments do not become effective until after the filing of a covenant that binds the current and future owners to use the Property only as permitted and conditioned by the Commission. If the PUD project is not constructed within the time and in the manner enumerated by the Zoning Regulations (11 DCMR §§ 2408.8 and 2408.9), the Zoning Map amendment expires and the zoning reverts to the pre-existing designation, pursuant to 11 DCMR § 2400.7. A PUD-related Zoning Map amendment is thus a temporary change to existing zoning that does not begin until a PUD covenant is recorded, ceases if the PUD is not built, and ends once the PUD use terminates. The Commission might grant PUD-related Zoning Map amendments in circumstances where it might reject permanent rezoning. Here, the Commission finds that the proposed PUD-related map amendment of the Property to the SP-1 District is appropriate given the superior features of the PUD project.

Spot Zoning

15. Spot zoning is the “wrenching of a small parcel from its environment for the benefit of a single owner and without the benefit to the public at large or the area affected.” Daro Realty, Inc. v. District of Columbia Zoning Comm’n, 581 A.2d 295, 299 (D.C. 1990) (citing Citizens Ass’n of Georgetown v. District of Columbia Zoning Comm’n, 402 A.2d 36, 40 (D.C. 1979)). There is a two-pronged test to determine if a parcel of land has been illegally “wrenched” from its environment: (1) when the Zoning Commission’s action “pertain[s] to a single parcel or a limited area—ordinarily for the benefit of a particular property owner or specially interested party,” and (2) the Zoning Commission’s action is “inconsistent with the city’s comprehensive plan, or if there is none, with the character and zoning of the surrounding area, or the purposes of zoning regulation, i.e., the public health, safety, and general welfare.” Id. Here, the proposed application does not result in spot zoning, as the project does not result in “the wrenching of a small parcel from its environment for the benefit of a single owner and without benefit to the public at large or the area affected.” In addition, the Commission (as noted above) finds that the proposed rezoning to the SP-1 Zone District is consistent with the Comprehensive Plan and the purposes of the Zoning Regulations. For these reasons, the Commission finds that granting the requested zoning map amendment does not result in “spot zoning.”

16. The applications for a PUD and related map amendment are 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 this application for Consolidated Review of a Planned Unit Development and related Zoning Map amendment for the property located at 5255 Loughboro Road (Lot 26, Square N-1448). The approval of this PUD is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Wilmot Sanz Architects and Planners marked as Exhibit 171 in the Record, as modified by the guidelines, conditions and standards herein.
2. The PUD Site shall be rezoned from R-5-A to SP-1, and shall have relief from the penthouse setback requirement of the Zoning Regulations consistent with the plans marked as Exhibit 171 in the Record. Further, pursuant to § 2405.3, the Applicant shall be permitted to achieve a height of 77 feet 4 inches. Finally, pursuant to § 2405.7, both the office and parking garage uses shall be approved.
3. The Project shall be developed as a medical office building and parking garage, and shall be constructed to a maximum density of 2.15. The medical office building shall consist of approximately 113,123 square feet of gross floor area and be constructed to a maximum height of 77 feet 4 inches.

4. The Project shall include a five-level parking garage containing approximately 750 spaces and consisting of approximately 115,028 square feet of gross floor area as shown on the approved plans. In regard to the operation of the parking garage, the Applicant shall:

- a. Turn off all lights on the above-grade levels of the parking garage at 9:00 PM. The below-grade levels of the garage will remain lit for after-hours parking.
- b. Require that all leases for space in the medical office building include a provision that requires the tenant to provide validated parking for its staff members.

5. The Project shall include off-street loading consistent with the approved plans.

6. The Applicant shall comply with the Transportation Management Plan ("TMP") outlined in Exhibit 171 of the Record. The TMP shall include the following components:

- a. A traffic routing program for employees, patients, and visitors who drive to the hospital, including signage to direct vehicular traffic to entrances located off Little Falls Road
- b. A shuttle bus providing continuous weekday service to the nearby Friendship Heights Metrorail Station;
- c. Information dissemination measures to promote the shuttle bus, including distribution of brochures to individual offices and advertisement materials in the office building lobby;
- d. Carpool incentives for hospital employees (as well as employees of the medical office building's tenants), including a ridesharing database and matching service and carpool spaces to registered rideshare groups;
- e. A transit benefits program that deducts pre-tax dollars for transit fare for all hospital employees that register for the program; and
- f. A quarterly report to the District Department of Transportation ("DDOT") and ANC 2A, detailed in the DDOT Report marked as Exhibit 175, that includes:
 - i. Details on the utilization of the carpool and shuttle bus services; and
 - ii. Details on the utilization of the transit benefits program.

7. The Applicant shall contribute 100% of the traffic engineering and construction costs of the redesign and reconstruction of the intersection of Loughboro Road and Dalecarlia Parkway, in accordance with the "Intersection Design Details" Plan dated January 25, 2007 and included in the Applicant's presentation marked as Exhibit 171 of the Record. Further, the Applicant shall:

- a. Coordinate the installation of active warning signs and pavement markings on southbound Dalecarlia Parkway with DDOT staff, including an approach warning

500 feet from the entrance to the Sibley medical campus, in order to regulate vehicular speed;

- b. Coordinate the final design of the intersection, including all pedestrian facilities, with DDOT staff.
 - c. Include a layover lane exclusively for use by public buses. In the event that DDOT and WMATA determine that it is appropriate to relocate the existing Metrobus stop on Loughboro Road to the bus layover location, the Applicant shall coordinate with DDOT and WMATA officials to relocate the bus stop.
8. The Project shall include the sustainable design features detailed in the Applicant's "Project Sustainability Initiatives" Plan submitted on February 21, 2007 and marked as Exhibit 196 of the Record.
9. The Project shall include the stormwater management features detailed in the Applicant's "Concept Grading and Stormwater Management Plan" and included in the Applicant's presentation marked as Exhibit 171 of the Record.
10. The Project shall include the landscape design features detailed in the Applicant's Landscape Plan and included in the Applicant's presentation marked as Exhibit 171 of the Record.
11. The Project shall include a public park located at the northwest corner of the intersection of Loughboro Road and Dalecarlia Parkway, which shall be maintained by the Applicant as a public park and open for public use and enjoyment.
12. The Applicant shall abide by the "Development and Construction Management Plan" submitted to ANC 3D on September 6, 2006 and included in the Applicant's supplemental submission marked as Exhibit 80 of the Record. Further, following the issuance of a building permit and prior to the issuance of a certificate of occupancy for the parking garage, the Applicant shall utilize the measures detailed in the "Interim Parking Plan" submitted on February 21, 2007 and marked as Exhibit 196 of the Record in order to ensure adequate parking for hospital employees, patients, and visitors during the construction of the Project.
13. Prior to the issuance of a building permit, the Applicant shall contribute \$140,000 to IONA Senior Services, for the purchase of two vans and other improvements to assist IONA with the transportation services that it provides to seniors in the Northwest Washington community.
14. Following the completion of the medical office building, the Applicant shall not supplant any uses transferred to the medical office building from other facilities on the Sibley campus with any new uses with any new uses; provided, that the Applicant expressly retains the right to use such space for the relocation and decompression of any hospital-related use in existence on the Sibley campus as of the effective date of this Order.
15. 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, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structures.
 - b. To vary final selection of the exterior materials within the color ranges and materials types as proposed, [without a reduction in quality,] based on the availability at the time of construction.
 - c. To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.
 - d. To make alterations to the parking garage design provided that the parking garage contains approximately 750 spaces, which requirement may be satisfied by any combination of compact and full-sized spaces, and conforms to the Zoning Regulations requiring parking garages, such as but not limited to aisle width.
16. The Applicant shall enter into a Memorandum of Understanding with the Office of Local Business Development prior to the issuance of a building permit for the Project.
17. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services prior to the issuance of a building permit for the Project.
18. No building permit shall be issued for this Planned Unit Development until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct on or use the property in accordance with this order and any amendment thereof by the Zoning Commission.
19. 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.
20. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed by the Applicant for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin on the Project within three years of the effective date of this order.
21. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code section 2-1401.01, et seq. (Act). The District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex,

age, marital status, 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, which 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 _____, 2006, the Zoning Commission approved the application by a vote of _____. This order was adopted by the Zoning Commission at its public meeting held on _____, by a vote of _____.

In accordance with the provisions of 11 DCMR § 2038, 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