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June 9, 2009

VIA HAND DELIVERY

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

Re: Z.C. Order No. 06-29^A – M Street Hotel
1143 New Hampshire Ave., N.W. (Square 72, Lot 74)

Dear Commissioners:

On behalf of Washington Value Added I LLC, the successor-in-interest to the applicant in the above-referenced case ("Applicant"), we request the Zoning Commission to approve a minor modification to extend the validity of Z.C. Order No. 06-29 (the "Order") for the M Street Hotel at 1143 New Hampshire Avenue, N.W. (Square 72, Lot 74). A copy of the Order is attached as Exhibit A. A check in the amount of \$400.00 is also attached to cover the cost of the filing fee pursuant to section 3040.4 of the Zoning Regulations.

I. Background

By Order dated May 14, 2007, and effective July 13, 2007, the Zoning Commission approved a map amendment from the R-5-E to the CR District and authorized the construction of two additional floors at the M Street Hotel. The two-story addition would expand the number of hotel rooms from 350 to approximately 440. Upon completion, the hotel would contain approximately 217,684 square feet of gross floor area, or a density of 6.97 FAR (floor area ratio). The height of the expanded hotel would be 110 feet.

In February 2008, the previous owner of the hotel, WB/NV Center City Holdings, LLC, sold the property to the Applicant, an affiliate of Losan Hotels World based in Madrid, Spain. Seven months later, the economy entered into a recession and expansion plans were put on hold.

Under Condition No. 9 of the Order, the PUD applicant is required to file for a building permit within two years after the effective date of the Order, or in this instance by July 12, 2009. Construction must begin within three years after the effective date of the Order. The Applicant retained the services of Capital Hotel Management LLC, a hotel management company, to aggressively manage the hotel assets in order to derive income for the property and maintain

ZONING COMMISSION
District of Columbia
CASE NO. 06-29A
EXHIBIT NO. EXHIBIT NO.1

refinancing/financing options to construct the approved addition. Because of the continuing economic uncertainty and the unavailability of financing, the Applicant requests a two-year extension of the Order's validity.

II. Good Cause Shown for Extension Request

Section 2408.10 of the Zoning Regulations authorizes the Zoning Commission to extend the time periods set forth for PUD approvals provided there is no substantial change in any of the material facts upon which the Zoning Commission based its original approval and the applicant demonstrates there is good cause for such extension. Here, there is no change to the plans approved by the Zoning Commission. Rather, the Applicant simply seeks a two-year extension of the Order's validity due the Applicant's inability to obtain financing despite its good faith efforts and as a result of the economic recession, which is beyond the applicant's control. *See* 11 DCMR § 2408.11(a).

The hospitality market in particular has been subject to, and continues to suffer from, severe financing shortages. As reported by Ernst & Young in March, there is "virtually no construction financing available" in the hospitality industry.¹ Hotels have been particularly vulnerable during this economic turmoil because they do not have the pre-leasing capability of a commercial office building to help secure loans. Both occupancy rates and room rates have decreased dramatically, making it the worst market for hotels since the great depression, according to PKF Hospitality Research. The hospitality market is not expected to fully recover until the first quarter of 2011.² Accordingly, the Applicant seeks a two-year extension of the PUD order to allow the financial climate to improve.

III. No Hearing is Necessary

Section 2408.12 of the Zoning Regulations provides that the Zoning Commission shall hold a public hearing on a PUD extension request only if there is a material factual conflict that has been generated by the parties. Here, there is no dispute that (i) the Applicant has been unable to secure financing for the project, or (ii) that there are significant impediments in the market place to proceeding with a hotel project at this time. Thus, there are no material factual conflicts generated concerning any of the criteria set by which the Zoning Commission is required to consider this request.

IV. Conclusion

In light of this demonstration of good cause and for the reasons stated herein, the Applicant respectfully requests that the Commission approve a two-year extension of the

¹ Eugene Gilligan, "For Hotel Developers, 2009 Proving to be No 'Shangri La'," *Commercial Property News*, March 3, 2009 (www.commercialpropertynews.com).

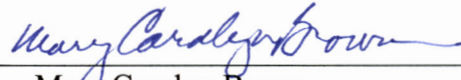
² "PKF Says Worsening Economy Extends U.S. Lodging Recovery Timeline," www.hospitality.net (March 2009); see also, "U.S. Hotel Profitability During Recessions: PKF Analysis," February 19, 2009, www.hospitality.net.

Page 3

approved PUD, such that a building permit application must be filed no later than July 12, 2011 and construction must start no later than June 12, 2012. No hearing is necessary as there are no material factual issues in question.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: 
Mary Carolyn Brown

Attachments

cc: Karen Thomas, Office of Planning (w/attach. via email)
Armando Irizarry, ANC 2A Chair (w/attach. via email and mail)
Rebecca K. Coder, ANC 2A02 (w/attach. via email and mail)
Barbara Kahlow, West End Citizens Association (w/attach. via email and mail)
Joy Howell, Foggy Bottom Association (w/attach. via mail)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-29

Z.C. Case No. 06-29

Consolidated Planned Unit Development and Related
Zoning Map Amendment for WB/NV Center City Holdings, LLC
(1143 New Hampshire Avenue, N.W.)

May 14, 2007

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 22, 2007 to consider the application from WB/NV Center City Hotel Holdings, LLC, for consolidated review and approval of a planned unit development and related zoning map amendment from the R-5-E District to the CR District. The Commission considered the application pursuant to Chapters 24 and 30 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

Application, Parties, and Public Hearing

1. On June 9, 2006, WB/NV Center City Hotel Holdings, LLC (the "Applicant"), owner of 1143 New Hampshire Avenue, N.W., also known as Lot 74 in Square 72 (the "Property" or "Site"), filed an application for the consolidated review and approval of a Planned Unit Development ("PUD") and related Zoning Map amendment to the C-3-C District for the Property. The Applicant later amended its application to request CR rezoning instead.
2. At its September 11, 2006 public meeting, the Commission determined to set down the application for public hearing.
3. The Commission held a public hearing on the application on March 22, 2007. Advisory Neighborhood Commission ("ANC") 2A was an automatic party to the proceeding and testified in support of the proposed PUD and map amendment to the CR District. The Commission granted party status to the West End Citizens Association ("WECA") and the Foggy Bottom Association ("FBA") who testified in support of the PUD and CR rezoning application.
4. At the conclusion of the March 22, 2007 public hearing, the Commission took proposed action by a vote of 5-0-0 to approve with conditions the application and plans presented at the public hearing.

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5. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") on March 22, 2007, under the terms of § 492 of the Home Rule Act. NCPC gave no response.
6. At its regularly scheduled public meeting held on May 14, 2007, the Commission voted to re-open the record to receive correspondence by the Applicant and the D.C. Public Library.
7. The Commission took final action by a vote of 5-0-0 to approve the application at its public meeting on May 14, 2007.

PUD Site and Surrounding Area

8. The Property is located at 1143 New Hampshire Avenue, N.W., in Square 72. The total land area for the Property is approximately 31,244 square feet, which exceeds the minimum area requirement of 15,000 square feet for a PUD in the R-5-E District established in § 2401.1(a) of the Zoning Regulations.
9. The Property is situated in Ward 2 at the southeast corner of M Street and New Hampshire Avenue, N.W. The Site has approximately 250 feet of frontage along New Hampshire Avenue, N.W. and is currently occupied by a nine-story hotel.
10. The Property is surrounded by a variety of uses. Office buildings are located to the north and east along 21st Street, N.W. Residential uses are located to the south along New Hampshire Avenue, N.W. To the east are hotels and additional office uses with ground floor retail. To the west are residential, hotel, retail, and office uses. Surrounding the Property in all directions are buildings either planned or constructed to heights of 110 feet.
11. The Generalized Land Use Map of the Comprehensive Plan designates the property in the mixed-use high-density residential/medium-density commercial land use category.

Existing and Proposed Zoning

12. The Site is currently zoned R-5-E. The R-5-E District permits matter-of-right high-density development of general residential uses, including single-family dwellings, flats, and apartment buildings, to a maximum lot occupancy of seventy-five percent, a maximum floor area ratio ("FAR") of 6.0 for apartment houses and hotels and 5.0 FAR for other structures, and a maximum height of ninety feet.
13. In its initial submission to the Commission, the Applicant requested rezoning of the Property to C-3-C. After consultation with the ANC and WECA, the Applicant amended its application to include the CR District in the alternative. Prior to the hearing, the

Applicant withdrew its request for C-3-C rezoning entirely and proceeded only with a request for the CR District.

14. The PUD guidelines for the CR District allow for a maximum height of 110 feet and a maximum density of 8.0 FAR, of which no more than 4.0 FAR may be devoted to non-residential uses. Subsection 631.2 of the Zoning Regulations provides that the guest room areas and service areas of hotels are considered residential uses in the CR Zone District.

Proposed Planned Unit Development

15. The Applicant proposes to renovate and reconfigure the existing hotel and to construct a two-story addition on top of the existing building. The existing hotel contains 350 rooms; the two-story addition will increase the total number of hotel rooms to approximately 440.
16. The expanded building will contain approximately 217,684 square feet of gross floor area and will have a density of 6.97 FAR. The addition will increase the maximum height of the hotel from 90 feet to approximately 110 feet.
17. In order to facilitate the construction of the planned addition, the Applicant has requested that the Commission rezone the property from R-5-E to CR.
18. There will be two phases of construction. Under the first phase, the Applicant will modernize the existing structure by replacing the building's single-glazed windows with new aluminum-framed windows. The concrete shrouds on the upper windows will be removed and new aluminum spandrel panels will be installed between the new windows. The split-faced concrete block will be painted a light gray to provide a more modern appearance. These renovations can proceed as a matter-of-right.
19. The second phase of construction will include the construction of the two-story addition. The addition will be clad in metal and glass, which will distinguish the addition from the existing building's painted masonry façade. The Applicant will also make substantial improvements to the New Hampshire Avenue streetscape, including a reconfigured driveway entrance, a sidewalk café, and extensive landscaping.
20. As a result of withdrawing its request for C-3-C zoning, the Applicant amended its plans to comport with the CR height limitation of 110 feet. The proposed enclosed roof snack bar was replaced with an unenclosed roof terrace and decorative pergola and trellis, which will extend approximately 18.5 feet above the permitted 110-foot height for PUDs in the CR District. Because the trellis is decorative in nature and is not habitable space, the Commission finds that the pergola and trellis constitute a permissible rooftop embellishment.

Accordingly, the PUD should be approved. The impact of the project on the surrounding area is not unacceptable. As set forth in the Findings of Fact, the proposed development has been appropriately designed to respect the neighboring properties in terms of height and mass and is complementary to adjacent buildings.

7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The PUD's benefits and amenities are reasonable for the development proposed on the site.
9. Evaluating the project according to the standards set forth in § 2403 of the Zoning Regulations, the Commission concludes that the application qualifies for approval. Judging, balancing, and reconciling the relative value of amenities and benefits in the application against the nature of the Applicant's request and any potential adverse effects, the Commission is persuaded that the proposed public benefits and project amenities are sufficient to justify the relief requested in this case.
10. Approval of this project is appropriate, because the proposed development is consistent with the present character of the area.
11. Approval of this project and the related change of zoning is not inconsistent with the Comprehensive Plan.
12. Approval of this project and the related change of zoning is not inconsistent with the purposes and objectives of zoning as set forth in § 2 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.02) including as follows:
 - a. The proposed zone is not inconsistent with the Comprehensive Plan;
 - b. The proposed zone will not produce objectionable traffic conditions;
 - c. The proposed rezoning will not lead to the undue concentration of population and the overcrowding of land;
 - d. This project will promote health and general welfare and tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services.
13. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's recommendations. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.

14. The Commission is required under §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) to give great weight to OP's recommendations (as reflected in Finding of Fact No. 25). The Commission considered the recommendations for approval and concurs in its recommendation.
15. The application for a PUD and related map amendment will promote the 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.
16. The application for a PUD and related map amendment are subject to compliance with the Human Rights Act of 1977, as amended (D.C. Law 2-38, D.C. Official Code § 2-1401.01).

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for consolidated review of a Planned Unit Development and for a related Zoning Map amendment from R-5-E to CR for the Property, located at 1143 New Hampshire Avenue, N.W., also known as Lot 74 in Square 72. This approval is subject to the following conditions:

1. The project shall be developed in accordance with the plans prepared by Shalom Baranes Associates, submitted to the Zoning Commission on March 2, 2007, as Exhibits 27 and 27A to the Record, as modified by the guidelines, conditions, and standards herein.
2. The project shall be a hotel development consisting of approximately 217,684 square feet of gross floor area and a total density of approximately 6.97 FAR.
3. The project shall have a maximum height of 110 feet.
4. Landscaping for the project shall provided consistent with the Landscape Plan provided at Exhibits 5, 14, and 48 in the record.
5. The Applicant shall provide a minimum of 142 parking spaces, consisting of both standard and stacked spaces. The Applicant shall maintain on the premises an all-valet parking program to ensure the efficient parking of automobiles.
6. Prior to the issuance of the building permit for the project, the Applicant shall execute a First Source Employment Agreement with the Department of Employment Services and a Memorandum of Understanding with the Department of Small and Local Business Development.

Public Benefits and Amenities

21. The Commission finds that the following public benefits and project amenities will be created as a result of the Project:

- a. *Contribution to D.C. Public Library Foundation.* The Applicant will contribute \$462,000 to the D.C. Public Library Foundation to be utilized for the benefit of the West End Branch Public Library, including the following: the design, development, and installation of a computer lab; the cost of space build-out, acquisition of computers, computer stations, and related office equipment and furniture; the design, development, and build-out of facilities for community and civic organizations, including furniture; and the necessary power and lighting modifications to accommodate the added facilities. To the extent feasible, the improvements paid for by this money will be capable of relocation.
- b. *Urban Design and Architecture.* Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. The proposed new façade and two additional floors have been designed to complement the surrounding development and enhance the prominence of the intersection of New Hampshire Avenue and M Street, N.W. The new façade will provide a contemporary, updated look to the older and outdated 1960's façade. In addition to the façade, the Applicant will provide extensive streetscaping, including street trees, new sidewalks, and new driveway paving. A sidewalk café at the north end of the site will further enhance the urban design and architecture of the proposed development.
- c. *Transportation.* Pursuant to § 2403.9(c) of the Zoning Regulations, "[e]ffective and safe vehicular and pedestrian access" is a representative public benefit and project amenity. The new driveway configuration has been designed to provide improved vehicular access for hotel guests by reversing the direction of the driveway flow so vehicles can pass into the garage directly from the drop-off without circulating back on to the streets.
- d. *Sustainable Design Features.* Section 2403.9(h) lists environmental benefits as a category of public benefits and/or project amenity. The PUD incorporates numerous "green building" practices into the design. Located in an urban center close to mass transportation, the PUD provides a high level of community connectivity and requires no additional parking for the increase in hotel use. The PUD's specified lighting concept qualifies for light pollution reduction and the new landscape design will promote water efficiency. The building will optimize energy performance through new windows, which incorporate insulated, low-emitting coated glazing, and through new mechanical, electrical, and plumbing systems. The indoor environmental quality is promoted through the use of low-emitting materials and 10% recycled materials. In addition, the PUD has been designed to achieve 18 LEED points through the

inclusion of the following features: sustainable site; water efficiency in landscape design; improved energy efficiency and refrigerant management; recycled content in building materials; low-emitting materials; and the use of LEED-accredited professionals.

- e. *First Source Employment Agreement.* In furtherance of § 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93, D.C. Official Code § 2-219.03), the Applicant will execute a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the jobs created by the PUD. The Applicant intends to use DOES as its first source for recruitment, referral, and placement of new hires for employees whose jobs are created by the PUD.
- f. *Small and Local Business Opportunities.* The Applicant will execute a Memorandum of Understanding with the D.C. Department of Small and Local Business Development in order to achieve, at a minimum, the goal of 35% participation by small, local, and disadvantaged businesses in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD. The Applicant's Memorandum of Understanding with the Department of Small and Local Business Development will contribute to the District's goal of ensuring adequate opportunities for small and local businesses to participate in development projects throughout the city.

Compliance with the Comprehensive Plan

- 22. The Commission finds that the Project is consistent with many of the Comprehensive Plan's major themes as follows:
 - a. *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 PUD provides the existing building with a contemporary, updated façade that replaces the existing, outdated 1960's façade. The PUD is consistent and complementary to the density and layout of the immediate neighborhood.
 - b. *Reaffirming and Strengthening District's Role as the Economic Hub of the National Capital Region.* The Comprehensive Plan encourages maximizing use of the District's location at the center of the region's radial Metrorail and commuter rail systems. The PUD takes advantage of this asset by its proximity to the Dupont Circle and Foggy Bottom Metrorail Stations and numerous Metrobus routes, which will promote and stimulate the use of existing mass transit service.

In addition, the provision of 142 parking spaces on site will greatly reduce parking shortages in this area of the city.

- c. *Preserving and Ensuring Community Input.* The Applicant has met with representatives of the ANC and other community groups, such as WECA and FBA, in an effort to gather community input on the project and to gain community support. Community concerns as to height and density have been thoroughly reviewed by the Applicant and incorporated into the application. The Applicant also submitted the signatures of 45 area residents in support of the application.
23. The Commission finds that the project furthers the objectives and policies of many of the Comprehensive Plan's major elements as follows:
- a. *Land Use Element.* The PUD is consistent with the Generalized Land Use Map of the Comprehensive Plan, which designates the property in the mixed-use high-density residential/medium-density commercial land use category. Pursuant to § 1108.1(t) of the Comprehensive Plan, the proposed development furthers the goal of the District to "encourage the expansion of existing hotels."
 - b. *Environmental Protection Element.* The policy of the Environmental Protection Element, pursuant to § 401.1 of the Comprehensive Plan is "to protect the environment, to resist threats to its overall quality, and to act to maintain and enhance its positive features in the interest of residents, workers and visitors." The proposed development furthers the policy of the Environmental Protection Element through its green elements, renovation of an existing structure, and improved utilization of the Property.
 - c. *Transportation Element.* One of the goals of the District, pursuant to § 503.2 (c) of the Comprehensive Plan, is to "[p]romote the increased use of mass transit, in the District and the region." The PUD is proximate to the Dupont Circle and Foggy Bottom Metrorail Stations and numerous Metrobus routes, which will promote and stimulate the use of existing mass transit.
 - d. *Urban Design Element.* Two objectives of Urban Design Element of the Comprehensive Plan, pursuant to §§ 702.1(b) and 702.1(d), are to "preserve and enhance the outstanding physical qualities of District neighborhoods" and to "encourage new development within areas of strong architectural character to contribute to the physical identity and character of the area." The new building façade and two-story addition have been designed to complement surrounding development and provide a contemporary look to a presently dull façade. In addition, the streetscape plan will complement and enhance the physical qualities and character

of the neighborhood. As a result, the PUD furthers these two objectives of the Urban Design Element of the Comprehensive Plan.

24. The Project also fulfills and furthers the specific objectives of the Comprehensive Plan for Ward 2, as follows:

- a. *Ward 2 Economic Development Element.* Pursuant to § 1301.1(a) of the Comprehensive Plan, the Ward 2 Economic Development Element seeks to enhance the image of the ward as a place to do business and to reside. The proposed development will create a variety of employment opportunities for District residents, business opportunities for small and local businesses, and significant tax revenues via the District's hotel and income taxes. In addition, the proposed development will enhance the image of the ward as a place to do business.
- b. *Ward 2 Transportation Element.* The Comprehensive Plan identifies parking within the ward as a major problem due to evening visitors, student parking, and the lack of adequate parking for residential dwellings. The Transportation Element of the Comprehensive Plan encourages strict adherence to the current parking requirements of the Zoning Regulations. The proposed development provides relief to the parking demands of the ward. The proposed development will provide 142 parking spaces, which is 19 more spaces than the number required by the Zoning Regulations. In addition, the Property is close to the Dupont Circle and Foggy Bottom Metrorail Stations, providing excellent public transit access.
- c. *Ward 2 Urban Design Element.* One of the objectives for the Ward 2 Urban Design Element of the Comprehensive plan is to place special emphasis on the sensitive design of areas around Metrorail stations where new development is likely to occur, respecting the integrity of those areas. This element, pursuant to § 1317.1(c) of the Comprehensive Plan, states that pedestrian amenities, ease of access, lighting, security, and signage befitting a portal to the city should be provided, in addition to adequate buffering and integration of new development into the surrounding area. The PUD satisfies this element by reconfiguring the driveway to the hotel for pedestrian safety and more efficient vehicular access and by providing pedestrian-friendly amenities, such as a sidewalk café. In addition, the architectural plans illustrate that the proposed development will enhance the physical character of the area and complement the surrounding neighborhood.

Office of Planning Report

25. By report dated March 12, 2007, the Office of Planning ("OP") recommended approval of the proposed PUD and related map amendment from R-5-E to the CR District to renovate the existing hotel and to construct two additional floors on top of the existing building. OP further supported the Applicant's request for: (1) flexibility from the rear yard requirements

to permit a minimal reduction of the rear yard, (2) from the roof structure requirements to permit a roof structure that does not meet the setback requirements, and (3) from the parking requirements to permit the conversion of the existing three-level garage to all-valet parking that will accommodate 142 parking spaces. OP noted that the ANC recommended that the Applicant change its requested zoning from C-3-C to CR in order to protect the residential character of the surrounding neighborhood.

District's Department of Transportation Report

26. By report dated March 21, 2007, the District's Department of Transportation ("DDOT") stated its support for the application, provided that the Applicant implement a valet parking operation to minimize parking overflow into the neighboring residential and retail business area.

Advisory Neighborhood Commission 2A

27. ANC 2A submitted a letter dated February 28, 2007, in support of the application, on the condition that (i) the Applicant request only CR zoning, (ii) that the Applicant contribute \$300,000 to the West End Branch Library for a computer lab, and (iii) that the Applicant contribute \$162,000 to the Department of Housing and Community Development ("DCHD") for use in tenant rental or purchase assistance within the ANC 2A boundaries, excluding properties solely owned by the George Washington University. At the March 22, 2007 public hearing on the application, Michael Thomas, chair of ANC 2A, testified on behalf of the ANC. Mr. Thomas clarified that, as a result of DCHD's inability to direct the assistance funds to tenants within the ANC 2A boundaries, the ANC agreed with the Applicant's proposal to contribute the entirety of the \$462,000 contribution to the D.C. Public Library Foundation for the benefit of the West End Branch Library. Because the conditions of the ANC's approval recommendation had been met, the ANC supported the application.

West End Citizens Association

28. WECA also testified as a party in support of the Applications on the condition that: (i) the Property only be rezoned to CR, (ii) there be no enclosed roof structure, and (iii) the community amenities be the same as those identified in the Applicant's opening remarks. WECA indicated it had worked closely with the Applicant to revise both its requested map amendment and its amenities package to more appropriately protect and benefit the Foggy Bottom/West End community.

Foggy Bottom Association

29. The FBA likewise testified as a party in support of the application. FBA stated that the Applicant's contribution to the D.C. Public Library Foundation is an amenity that will benefit all residents of the West End community.

CONCLUSIONS OF LAW

1. Pursuant to § 2400.1 of the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that a 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. The objective of the PUD process is to encourage high-quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under conventional zoning procedures. Section 2403.9 of the Zoning Regulations provides categories of public benefits and project amenities for review by the Commission. In approving a PUD, the Commission must determine that the impact of a PUD on the surrounding area and on the operation of city services and facilities is either not unacceptable, is capable of being mitigated, or is acceptable given the quality of public benefits provided by said project. (11 DCMR § 2403.3.)
3. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts.
4. The development of this project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage the construction of well-planned developments that offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
6. The proposed project is within the applicable height, bulk, and density standards of the Zoning Regulations. The Project involves the renovation and reconfiguration of an existing hotel and the construction of a two-story addition, consisting of 90 rooms, on top of the existing structure. Pursuant to § 1108.1(t) of the Comprehensive Plan, the project furthers the goal of the District to "encourage the expansion of existing hotels."

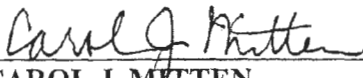
7. Prior to the issuance of the Certificate of Occupancy for the project, the Applicant will contribute \$462,000 to the D.C. Public Library Foundation to be utilized for the benefit of the West End Branch Public Library, including the following: the design, development, and installation of a computer lab; the cost of space build-out, acquisition of computers, computer stations, and related office equipment and furniture; the design, development, and build-out of facilities for community and civic organizations, including furniture; and the necessary power and lighting modifications to accommodate the added facilities. To the extent feasible, the improvements paid for by this money will be capable of relocation.
8. No building permit shall be issued for the project until the Applicant has recorded a covenant in the Land Records of the District of Columbia, between the property owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA") (the "PUD Covenant"). Such PUD Covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.
9. The PUD approved by the Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.
10. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 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, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On March 22, 2007, the Zoning Commission **APPROVED** the Applications by a vote of 5-0-0 (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on May 14, 2007, by a vote of 5-0-0 (Carol J. Mitten, Michael G. Turnbull, Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve).

Z.C. ORDER NO. 06-29
Z.C. CASE NO. 06-29
PAGE 13

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 JUL 13 2007.



CAROL J. MITTEN

Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., June 13, 2006

Plat for Building Permit of SQUARE 72 LOT 74

Scale: 1 inch = 30 feet Recorded in Book 150 Page 155

Receipt No. 00907

Furnished to: HOLLAND & KNIGHT

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platfed; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platfed, and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved; in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed, that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

[Signature]
Surveyor, D.C.

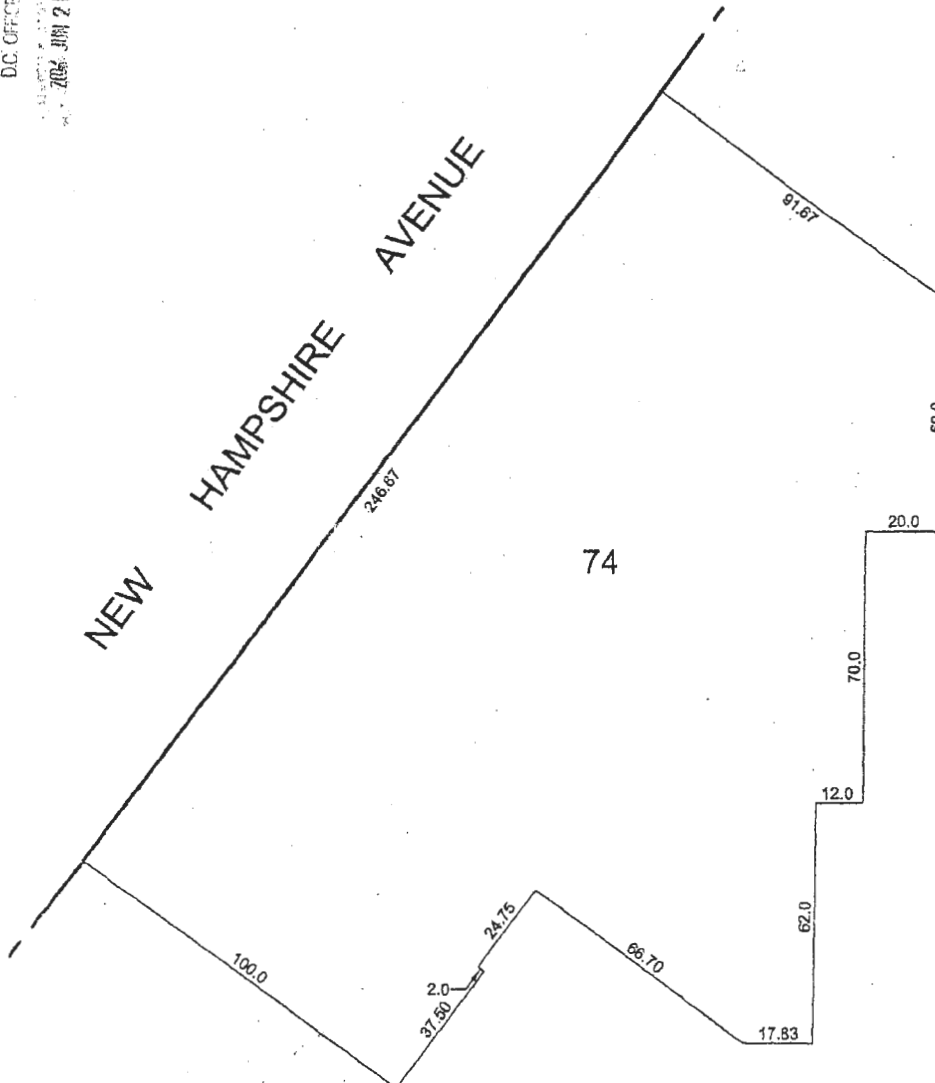
By: L.M.A. *[Signature]*

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

NEW HAMPSHIRE AVENUE

74



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